CICERONIS DE LEGIBUS.

M. TULLII CICERONIS

DE LEGIBUS LIBRI TRES.

A REVISED TEXT

WITH

ENGLISH NOTES.

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PREFACE.

Some years ago, having occasion to read the *de Legibus* of Cicero, with a class of Students preparing for Examination, the Editor was met with the inquiry—"Do you know of any Edition with English notes?"

When one considers that this treatise introduces us, more shortly than any other work of Cicero, to some of the most important Religious, Political and Philosophical questions of that time, it is impossible to help a feeling of astonishment that it should have been suffered to remain so long in the limbo of Latin notes; which, so far as the majority of young readers are concerned, present an unquestioned *ΜΗΔΕΙΣ ΕΙΣΙΤΩ*.

It is encouraging to find that, in France, during the past few months, at least three Editions of Book I., with notes in the vernacular, have been announced. The present Edition was undertaken in the hope that, by lightening the labour of the English Student, it might, in some degree, promote the study of a work which, while rich in questions for the Antiquary and the Scholar, is calculated, if any other, by stimulating his curiosity and sustaining his interest, to encourage the tyro to grapple with its difficulties.

In determining the text, it has been thought best—as well for the sake of uniformity as out of respect for the high reputation, which Professor Halm deservedly enjoys among English Scholars—to depart as little as possible

from the Zürich Cicero (*M. T. Ciceronis Opera—ex recens. Orell. Ed. II.—continuaverunt I. G. Baiter, et C. Halm.* **TURICI.** 1861.), as far as orthography is concerned; and although, in other respects, loyalty to MSS. and a proper deference to the opinions of later Critics, have necessitated frequent departures; yet, in all such cases, Halm's readings have been carefully noted. Moreover, as Critics of the highest authority frequently differ widely as to the proper reading of particular passages, it has been deemed advisable in many cases to mention the readings of the best MSS., as well as those proposed by the Commentators. The editions of Bake (**Leyden,** 1842.) Feldhügel (**Zeitz,** 1852.) and Vahlen (**Berlin,** 1871.) have been found indispensable for this purpose: furnishing, as they do, a careful collation of the principal MSS.; while the slashing criticism of the first, and the judicious conservatism of the last, have cleared the way and marked the lines for less bold and skilful followers. The commentary of Moser and Creuzer (**Frankfurt.** 1824.), embodying those of Davies and Turnebus, as well as many valuable contributions towards the revision of the text or the elucidation of the subjects, from Görenz, Wagner, Wyttenbach, Savigny and other Scholars and Jurists, has been throughout of the greatest assistance. The notes of Ernesti and Schütz, the Texts of Nobbe (**Tauchnitz,** 1850.) and Klotz (**Teubner,** 1863.) have also been carefully examined. The emendations proposed by Huschke (*Iurisprud. Anteiustin.*, Ed. IV., **Lips.** 1879.) and by Dr. Adolph du Mesnil (**Leipzig,** 1879.) have been occasionally noticed; although unfortunately they did not come to hand, until the notes of this edition had been prepared for printing.—

It is not proposed to enter here into a detailed examination or history of MSS., their comparative value and the relations in which they stand to each other.

Those who seek such information, are referred to the learned disquisitions of Madvig, Bake and Feldhügel. Briefly, it may be stated that all MSS., from which the text of the *de Legibus* must be determined, are supposed by competent Critics to have been derived, from a mutilated original or archetype, by two channels; each of which, in its successive transcripts, has diverged more and more from the original. Thus we find two classes or families of MSS., according as they may be attributed to one or other of these sources.

The three MSS. to which Bake, Halm and Vahlen have assigned the highest authority, and on which Halm and Vahlen have based their text—are marked respectively: **A**, **B** and **C**. Of these, **A** and **B** belong to the Vossian collection, preserved in the University Library at Leyden; and **C**—sometimes called *Codex Heinsianus*, from its former owner Nic. Heinsius—is also preserved at Leyden. With regard to the date of these MSS., experts have assigned **A** to the 11th century, **B** to the 12th and **C** to the 12 or 13th.

Vahlen, who has recently examined **A** and **B**, remarks that, while both have been corrected, the corrector of **A** has generally effaced the original reading; while, in the case of **B**, the original reading is frequently still visible through the corrections: hence Vahlen would give the preference to **B**.

As will easily be seen, from what has been said respecting the condition of MSS., all the labours of the Critics only tend to bring out more clearly the fragmentary condition of this treatise of Cicero's. Indeed, some have gone so far as to deny him its authorship; while others, with Hülsemann, have fallen back upon the theory that what remains is merely an abridgment of some larger work, handed down in this form by some worthy

Ecclesiastic—one of those obscure *literati*, who are supposed by the sceptic to have mauled or manufactured much of that ancient literature which time has spared. Both theories however, have been almost unanimously rejected; and the work has been pronounced by Connoisseurs a genuine Ciceronian.

The date of the composition of the *de Legibus*, has been the subject of much controversy: from the fact that it is nowhere mentioned by Cicero, even in those passages, where his other political or philosophical writings are enumerated (*e. g. de Divin.* II. i.), and that there is no allusion to it in the letters to Atticus, Chapman *(de aetate Ciceronis librorum de legibus*, Cantab. 1741.) and, more recently, Peter have argued that it is of later date (*i. e.* 709—710.). But this theory has been set aside; because it is inconsistent with the idea that Pompeius and Cato of Utica are spoken of, in the *de Legibus* (I. §. 8., III. §§. 22., 40.), as characters still upon the scene. Moreover, the whole work breathes a spirit of hopefulness and energy, altogether at variance with that pathetic alternation of melancholy repining and philosophic resignation, which one finds in the works and letters of those latter days; in which the bereaved father mourns that he has nothing left, neither occupation to divert, nor domestic comfort to relieve his melancholy reflections, (*ad Div.* IV. vi. 2.). In fact, unless with Wyttenbach we fall back upon that period (*U. C.* 704. *fin.*), which elapsed between Cicero's return from Cilicia and the breaking out of the civil war, a few months later: which, to say the least, is very improbable; as Cicero was all that time distracted at the prospect of a conflict, which could only end in a despotism ("*dominatio ab utroque quaesita est.*" *ad Attic.* VIII. xi. 2.): we are compelled to agree with Turnebus, Zumpt and others that the only date possible is *U. C.* 702—703.

The only period not excluded by internal evidence, such as references to events of known date (*e. g.* Cicero's exile and restoration, 696—7., the death of Clodius, 702.) or to individuals as living and flourishing (*e. g.* Pompeius and Cato), whom we know to have perished in the years 706. and 708.; or by the absence of any allusion to the events of the Civil war, although this must be confessed to be less conclusive—the only period, not thus excluded, is 702. to 706. Now we know that Cicero started for his province of Cilicia in May, 703.; and that he returned to Italy in November, 704. After lingering, for some months, in a state of indecision, he finally concluded to throw in his lot with Pompeius; whom he followed into Greece, in June, 705. After the defeat of Pompeius, Cicero returned to Brundisium: where, in great suspense, he awaited Caesar's arrival, September, 707. Moreover, as has been remarked, the prevailing tone and, indeed, the presumed object of this work, both accord admirably with Cicero's condition at this time (*U. C.* 702.). He speaks as if he thought himself a power in the State; and, while fully aware of the imperfections in its constitution, does not despair of the possibility of obviating or evading much of the attendant evil. The reactionary zeal of the Senate and of the 'good citizens,' would seem to have persuaded him that the country was still sound at heart; only needing to be roused, in order to quell the factious violence of a desperate minority. His restoration from exile, his election as Augur (*U. C.* 701.), the Divine vengeance, which had overtaken his enemies (II. §§. 31., 42. III. §. 45.), are dwelt upon with all the zest attaching to events fresh in the memory of himself and his hearers. The dignity of the Senate is exalted; its grateful acknowledgment of his public services is paraded (III. §. 29.). Again, as Bake observes, his strictures (III. §. 18.) on the unwillingness of

provincial governors to retire, aptly coincide with those in his letter to Atticus (*ad Attic.* v. ii. 3.); where he contrasts his own reluctance to undertake the responsibilities of a province, with the ambitious eagerness of other men.

If the work was begun at this period, it is easy to account for its being left unfinished, as well as for the absence of allusion to it, in the letters to Atticus; since Cicero must have been called away from this congenial occupation to his unwelcome province; and, owing probably to the fact that both friends were at Rome together, there are no letters from Cicero to Atticus for the year 702. The subsequent revolution and complete change in the state of affairs, added to the Author's avowed reluctance (I. §. 9.) to resume a subject once laid aside, furnish sufficient reasons to account for its remaining unpublished during his lifetime. Lastly, we know that the *de Republica*, begun early in 700., was in general circulation before 703. (*ad Attic.* IV. xvi. 2, *ad Div.* VIII. i. 4.), and it is a natural supposition that the *de Legibus*, being a necessary supplement of the former work, would follow with no long interval.

Allusion has already been made to the incomplete and fragmentary condition of what remains to us of the *de Legibus:* in a measure, no doubt, the wear of time must be held accountable; but it is more than probable that the work never received the finishing touch of its author. In proof of this, much stress has been laid on a quotation from Quintilian (*Inst. Orat.* XII. 3.) to the effect that Cicero commenced a treatise on Jurisprudence: and Bake sees further indications of incompleteness, not so much in the non-fulfilment of promises to dicuss certain topics at greater length, and in the frequent references to previous explanations, for which we look in vain (*e. g.* II. §. 34. III. §. 40.)—because, in these cases, the passages referred to

may have been lost—as in the confusion and redundancy manifest in certain passages (*e. g.* I. §§. 17., 19., 20. II. §. 9.); where Bake suggests that we have a rough draught, which the author intended to revise and polish before publishing. How many books Cicero actually composed, is a question which will probably never be answered—Macrobius (See *Frag.* VI.) professes to quote from a 5th book—and there is quite as much uncertainty as to his intention; Commentators, arguing from supposed divisions of the subject and from the method pursued in the extant books, have contended: Fabricius and Wagner for five; Görenz, Moser and others for six; Davies and Hülsemann for eight books. The theory of Görenz would appear to have most reason: we know that the Republic consisted of six books; and it is natural to suppose that there would be an equal number of books on the Laws; because, in both, the works of Plato under the same titles are professedly imitated; each of which comprises twelve books, or exactly double the number of Cicero's. As for the subjects of the lost books, all conjectures concerning them are necessarily so unsafe; resting as they do, for the most part, on the doubtful passage III. §. 48., that it appears wiser to omit them.

The scene of the dialogue is laid at Arpinum, in the immediate vicinity of an old family residence of the Ciceros, near the confluence of the Liris and Fibrenus: whither Marcus and his brother Quintus have resorted, in company with Pomponius Atticus (brother-in-law of Quintus, and bosom friend and correspondent of the Orator) during a hot summer's day.—

As Cicero (*ad Attic.* IV. xvi.) informs us that it is his custom to prefix an introduction or prologue to his dialogues, for the purpose of introducing the speakers to the reader: which introduction was sometimes added after the completion of the other parts of the work (cp. *ad Attic.*

XVI. vi., where he tells us that he has a volume of such *procemia*); Commentators have been much exercised to determine whether the few introductory chapters (I. to IV. of Bk. I.) may be considered to constitute a regular *prooemium*, or not. The most probable theory is: that, as the abrupt opening of this dialogue is exactly similar to that of the Phaedrus of Plato—which we know that Cicero had in mind at this time (II. §. 6.)—he has, in this case, departed from his own practice, in imitation of Plato. And this is the more likely as, in form and style, the *de Legibus* is unmistakably Platonic (cp. II. §. 6.; III. §. 1.); while its subject matter is just as indisputably Stoic (cp. I. §. 36.): much of it being taken directly from the treatises of philosophers of that School. In fact, Görenz shows that the argument of Bk. I. was to be found in the *περὶ νόμου* of Chrysippus.—

M. TULLII CICERONIS

DE LEGIBUS.

LIBER PRIMUS.

Bk. I. §§. 1—13. Introductory.

An old oak, which the friends meet with in their walk, brings up the subject of Marcus's poem "Marius." Atticus inquiring if the incidents narrated in it are true, the author demurs that such an inquiry should be addressed rather to the historian than to the poet: his friend presses him to undertake the task of writing history, alleging that this branch of literature has been neglected by his countrymen; the early Roman historians are briefly and contemptuously ennumerated. Marcus pleads want of leisure as an excuse for not having attempted a subject so absorbing; adding that he hopes that old age will set him free to attend to this, as well as to matters of higher import (*i.e.* philosophy); at the same time he will always be ready to give his country-men the benefit of his experience in jurisprudence. His hearers beg that he will improve the present opportunity for a discussion of this subject.

I. 1. *Atticus.* Lucus quidem ille et haec Arpinatium quercus agnoscitur saepe a me lectus in Mario. Si enim manet illa quercus, haec est profecto; etenim est sane vetus. *Quintus.* Manet vero, Attice noster, et semper manebit; sata est enim ingenio. Nullius autem agricolae cultu stirps tam diuturna quam poetae versu seminari potest. *Att.* Quo tandem

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§. 1. **ille—haec.** "Yonder grove," opposed to "this oak" under which they have probably come to a stand. **lectus** is referred to **lucus** by *syllepsis.*

Mario. Cicero, in a quotation from this poem (*de Div.* I. 47.), says that Marius, when exiled, augured his restoration from the victory of an eagle over a snake. According to Plutarch, the boy Marius found a nest of seven eaglets, by which were typified his Seven Consulships.

etenim. Bake prefers **est enim.** Like καὶ γάρ, and ἀλλὰ γάρ. *etenim* must be explained as an ellipse, *i. e.* "and (*it is likely enough*) for &c."

sane. Strengthens **vetus.** *Sane* ('well' cp. our "well stricken in years") has two principal uses, both of which correspond with Greek δή. (1) **intensive,** *e. g.* "*Sane vetus*" (2) **concessive,** usually with qualification attached, *e. g.* "*Sit ita sane: verum tamen.*"

modo, Quinte? aut quale est istuc, quod poetae serunt? mihi enim videris fratrem laudando suffragari tibi. 2. *Q.* Sit ita sane: verum tamen, dum Latinae loquentur litterae, quercus huic loco non deerit, quae Mariana dicatur, eaque, ut ait Scaevola de fratris mei Mario,

canescet saeclis innumerabilibus.

Nisi forte Athenae tuae sempiternam in arce oleam tenere potuerunt aut, quod Homericus Ulixes Deli se proceram et teneram palmam vidisse dixit, hodie monstrant eandem, multaque alia multis locis diutius commemoratione manent quam natura stare potuerunt. Quare glandifera illa quercus, ex qua olim evolavit

nuntia fulva Iovis, miranda visa figura,

nunc sit haec. Sed cum eam tempestas vetustasve consumserit, tamen erit his in locis quercus, quam

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suffragari. Quintus was himself a poet. Upon his asking the orator, who had urged him to write an account of his adventures in Britain, to contribute some verses; Cicero replied "*ego te libenter adiuvabo et tibi versus, quos rogas, γλαῦκ' εἰς Ἀθήνας mittam*" (*ad Q. Fr.* II. 16. 4.).

Latinae. Most MSS. have **Latine**; but, as Bake says, we may properly enough, by prosopopœia, say *Latinae litterae loq*, ('while Latin literature shall have a voice;') whereas *litterae* is much too universal in its signification for us to say *Latine loq litterae*, ('speak Latin.') For **dicatur** Halm prefers **dicetur.**

Scaevola. II. §. 47. Since the "Augur" died two years before, and the "Pontifex" only four years after Marius; Bake explains "Scaevola in the poem Marius" cp. Cic. *Phil.* II. xxvii. 65. "*persona de mimo cet.*" He thinks that these words **canescet cet.** are spoken concerning the oak, by Scaevola as a character in Cicero's poem.—Turnebus supposed that the poem was written during the life of Marius, and that Scaevola was so struck with it that he composed an epigram in its praise, from which this is a quotation.

nisi forte. *εἰ μὴ ἄρα.* An ironical supposition. (See Madvig. *L. Gr.* 442. c. 1).

oleam. The olive of Pallas, from which the Μόριαι in the Academy were derived; according to Pliny (*H. N.* xvi. 44. 89) the curious could still have it shown to them.

quod. Davies would read **quam.** Feldh. defends the conjunction, as more ironical. The reference is to *Odyss.* VI. 162.

eandem. predic.—"show one as the same," cp. §. 30.

nuntia. Manifestly a quotation from "Marius." Goerenz compares the Homeric *θαῦμα ἰδέσθαι.*

Marianam [quercum] vocabunt. 3. *Att.* Non dubito id quidem. Sed hoc non iam ex te, Quinte, quaero, verum ex ipso poeta, tuine versus hanc quercum severint, an ita factum de Mario, ut scribis, acceperis. *Marcus.* Respondebo tibi equidem, sed non ante quam mihi tu ipse responderis, Attice, certene non longe a tuis aedibus inambulans post excessum suum Romulus Proculo Iulio dixerit se deum esse et Quirinum vocari templumque sibi dedicari in eo loco iusserit, et verene Athenis non longe item a tua illa antiqua domo Orithyiam Aquilo sustulerit; sic enim est traditum. 4. *Att.* Quorsum tandem aut cur ista quaeris? *M.* Nihil sane, nisi ne nimis diligenter inquiras in ea, quae isto modo memoriae sint prodita. *Att.* Atqui multa quaeruntur in Mario fictane an vera sint, et a non nullis, quod et in recenti memoria et in Arpinati homine versere, veritas a te postulatur. *M.* Et me hercule ego me cupio non mendacem putari, sed

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quercum. Davies and others defend **quercum.** Halm thinks with Manutius that it is superfluous.

vocabunt. Halm after Klotz. MSS. have **vocant,** which Editors generally have corrected into **vocent,** for grammatical reasons.

§. 3. **certene non.** MSS. have **certen longe,** or **certe non l.** Goerenz thinks that the particle of interrogation may be omitted; but this, to say the least, would be very awkward. (Madvig, *L. Gr.* §. 450.).

Romulus. This legend is told by Livy, I. 16.; Nepos (*Attic* XIII. 2), says that Atticus had a house on the Quirinal. cp. Cic. *de Rep.* II. 10.

et verene Athenis. Halm after Davies. Bake **et verumne sit ut Athenis.** From *ad Attic:* I. 10, 1., it has been supposed that Atticus had a house in the Ceramicus. cp. Plato, *Phædr.* 229. B, where the rape of Orithyia is said to have taken place near the Ilissus.

§. 4. **Quorsum.** "What is the point? Pray! Or, rather, why do you put those questions of yours?" In questions, *tandem* indicates surprise that the person addressed has gone *so far* as to do or say what he has. cp. §. 53.

sint prodita. MSS.; Halm **sunt.** The conjunctive may be defended, as the antecedent is indefinite, *i. e.* "things of such a kind, &c." (Madv. *L. Gr.* 364.).

Arpinati, and therefore a fellow townsman. cp. II. §. 6.

versere, veritas. MSS. have **vel severitas,** which Feldhügel defends: and it would hardly be straining the meaning of *severitas*, to translate it here "rigid accuracy"—but *mendacem* following seems to require *veritas.*

tamen non nulli isti, Tite noster, faciunt imperite, qui in isto periculo non ut a poeta, sed ut a teste veritatem exigant; nec dubito quin idem et cum Egeria conlocutum Numam et ab aquila Tarquinio apicem impositum putent. 5. *Q.* Intellego te, frater, alias in historia leges observandas putare, alias in poemate. *M.* Quippe cum in illa ad veritatem cuncta referantur, in hoc ad delectationem pleraque: quamquam et apud Herodotum, patrem historiae, et apud Theopompum sunt innumerabiles fabulae.

II. *Att.* Teneo quam optabam occasionem neque omittam. *M.* Quam tandem, Tite? *Att.* Postulatur a te iam diu vel flagitatur potius historia; sic enim putant, te illam tractante effici posse ut in hoc etiam genere Graeciae nihil cedamus. Atque ut audias, quid ego ipse sentiam, non solum mihi videris eorum studiis, qui in litteris delectantur, sed etiam patriae debere hoc munus, ut ea, quae salva per te est,

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isti. "those 'some people' you speak of."

periculo. "venture or essay." "*Poema suum de Mario* **periculum** *vocat, quod ingenii* **periclitandi** *caussa sit scriptum.*" Davies.

Egeria. Livy too (I. 19.), is rather sceptical about Egeria. The story about Tarquinius Priscus is told by Livy, I. 34. (See Lewis, *Early Roman History*, Vol. I. Ch. XI. §§. 12—20.).

§. 5. **cuncta.** For *cuncta* MSS. have **quinte**, which some Editors retain; Davies reads **quaeque.**

Theopompum. Of Chios, pupil of Isocrates; he wrote an epitome of Herodotus, a History of Greece, and Life of Philip of Macedon.

fabulae. "stories," or "legends," not necessarily fictitious. (On the credibility of Herodotus as a historian, see Grote, *History of Greece*, Vol. III. Ch. XX.).

vel flagitatur. Halm **et fl.** The distinction between *postulo* (ἀξιόω) "ask as one's right," and *flagito* "dun," is sufficiently trite.

hoc etiam. *i. e.* as well as in oratory. cp. *de Divin.* II. 2. 5. *Magnificum illud etiam Romanisque hominibus gloriosum ut Graecis de philosophia litteris non egeant. Quod assequar profecto, si instituta perfecero.* cp. III. §. 15.

in litteris. *v. l.* **tuis litteris.** According to Feldh. (II. §. 17.), we must distinguish *delectari in aliquo* "to take pleasure in" from *delectari aliquo*, "to be pleased by."

per te eundem sit ornata; abest enim historia litteris nostris, ut et ipse intellego et ex te persaepe audio. Potes autem tu profecto satis facere in ea, quippe cum sit opus, ut tibi quidem videri solet, unum hoc oratorium maxime. 6. Quam ob rem adgredere, quaesumus, et sume ad hanc rem tempus, quae est a nostris hominibus adhuc aut ignorata aut relicta. Nam post annales pontificum maximorum, quibus nihil potest esse iuncidius si aut ad Fabium aut ad eum, qui tibi semper in ore est, Catonem aut ad Pisonem aut ad Fannium aut ad Vennonium venias, quamquam ex his alius alio plus habet virium, tamen quid tam exile quam isti omnes? Fannii autem aetati coniunctus

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te eundem. "you also." (Madvig, *L. Gr.* §. 488.)

abest. Here nearly synonym. with *deest*, which Lambinus prefers. For the distinction, Davies quotes *Brut.* LXXX. 276. *Hoc unum illi, si nihil utilitatis habebat,* **abfuit**; *si opus erat* **defuit.**

unum—maxime. For the additional force imparted to the superlative by its conjunction with *unus*, cp. the Greek πλεῖστα εἷς ἀνήρ, for the sentiment, cp. *de Orat.* II. 15. 62.

§. 6. **annales.** An annual register of public events kept by the Pontifex Maximus, hence called *Annales Maximi.* (For an account of the early Roman Historians, see "*An Inquiry into the Credibility of the Early Roman History,*" by Sir G. C. Lewis.).

iuncidius. Lambin, *i. e.* "more rush-like, meagre," (fr. *iuncus*)—being an uncommon word, *iuncidius* would easily be altered by the copyist (*iūcidius* to *iucūdius*) into the more familiar *iucundius* of MSS. Of course tastes differed (*e. g.* Horace II. *Epp.* i. 26); but the context requires something like *ieiunius*, which Niebuhr prefers; Halm and Davies *iniucundius.*

Fabium. Q. F. Pictor, the most ancient Roman historian, flourished about the time of the 2nd Punic war. He wrote in Greek.

Catonem. M. P. Cato *Censor*, the friend of Ennius; he was the first to write a history in Latin. He composed a work called "*Origines,*" (about *U. C.* 584.), the object of which was to give an account of the origin of Rome and other Italian cities. Cicero constantly praises him. cp. *Brut.* LXXXV. 292.

Pisonem. L. C. Piso *Frugi* (Cos. *U. C.* 621.), "*et orationes reliquit —et annales.*" (*Brut.* XXVII. 106.)

Fannium. C. Fannius. (Praetor. *U. C.* 617.). Son in law of C. Laelius *Sap.* cp. *Brut.* XXVI. 101.

Vennonium. An unknown historian. Cic. *ad Attic* XII. 3, says "*At moleste fero Vennonii historiam me non habere.*"

aetati. Halm retains the MSS. reading **aetate**, but remarks that we must either read **aetati** with Lambinus, or **Fannio** with Turnebus.

Antipater paulo inflavit vehementius habuitque vires agrestis ille quidem atque horridas, sine nitore ac palaestra, sed tamen admonere reliquos potuit ut accuratius scriberent. Ecce autem successere huic Gellius, Clodius, Asellio, nihil ad Caelium sed potius ad antiquorum languorem et inscitiam. 7. Nam quid Macrum numerem? cuius loquacitas habet aliquid argutiarum, nec id tamen ex illa erudita Graecorum copia, sed ex librariolis Latinis, in orationibus autem †multas ineptus datio summam inpudentiam. Sisenna,

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Antipater. L. Caelius Antipater, a contemporary of the Gracchi wrote a history of the Punic wars, in which he copied the Greek history of Silenus (*de Divin.* I. xxiv. 49.).

inflavit. Metaph. from flute playing. cp. *de Orat.* II. xii. 54. *paullum se erexit addiditque historiae maiorem sonum vocis...Antipater.*

ille quidem—sed tamen. "Unpolished *I grant you,* and rough—*but for all that;*" for this use of *quidem* with the pronoun added, where a qualified assent is given, see Madv. *L. G.* §. 489., cp. III. §. 24.

nitore ac palaestra. Metaph. from the anointing of Athletes; hendiadys, "the polish of the schools."

Gellius. MSS. have **belli**, which Vahlen defends, *i. e.* "charming writers," ironically spoken. The emendation **Gellius** or **Gellii** is borne out by the *de Divin.* (I. xxvi. 55.) where the *Gellii* (*Cn.* and *Sext.*), are mentioned in a similar enumeration, along with *Caelius.*

Clodius. According to Ernesti, this is P. Clodius Licinus mentioned by Livy (XXIX. 22.). Turnebus takes him to be Q. Clodius (or Claudius) Quadrigarius.

Asellio. P. Sempronius Asellio served as a military tribune under Scipio Africanus, in the Numantine war, (*U. C.* 620.), and wrote an account of the campaign. cp. *A. Gell.* II. 13.

nihil ad. cp. *de Orat.* I. vi. 25. *virum bonum et non illiteratum sed nihil ad Persium.* "Not at all to be compared with Caelius." Wyttenbach remarks this as an instance of abstr. for concrete; **antiq. lang. &c.**, being equivalent to *antiquos illos, languidos atque inscitos.*

§. 7. **Macrum.** C. Licinius Macer, father of C. L. Calvus, the Orator, as Tribune of the Plebs (*U. C.* 681.), he impeached Rabirius; and being himself impeached (*U. C.* 688.), '*de repetundis,*' on which occasion Cicero presided as judge, evaded sentence by suicide. He is quoted by Livy IV. 7. cp. *Brut.* LXVII. 238.

multas...inpudentiam. Many emendations of this corrupt passage have been proposed. Madvig, Görenz, and Schütz, approve **multas ineptias, elatio summam impudentiam** (or **imprudentiam**); Zumpt **multus et ineptus et adeo summa impud.**; Cicero (*Brut.* LXVII. 238), says of Macer *vox gestus et omnis* **actio** *sine lepore.* Bearing in mind that the best MSS. consistently give either **dacio** or **datio** in this passage, I have conjectured "*multas ineptias;* **sed actio** *summam.*" The initial *s* in

eius amicus, omnes adhuc nostros scriptores, nisi qui forte nondum ediderunt, de quibus existimare non possumus, facile superavit. Is tamen neque orator in numero vestro umquam est habitus et in historia puerile quiddam consectatur, ut unum Clitarchum neque praeterea quemquam de Graecis legisse videatur, eum tamen velle dum taxat imitari: quem si adsequi posset, aliquantum ab optumo tamen abesset. Quare tuum est munus hoc, a te exspectatur, nisi quid Quinto videtur secus.

III. 8. *Q.* Mihi vero nihil, et saepe de isto conlocuti sumus: sed est quaedam inter nos parva dissensio. *Att.* Quae tandem? *Q.* A quibus temporibus scribendi capiat exordium. Ego enim ab ultimis censeo, quoniam illa sic scripta sunt, ut ne legantur quidem, ipse autem aequalem aetatis suae memoriam

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'**sed**' would be very likely to be lost through being confounded with the final *s* of **ineptias**. The omission of one or other of the two letters *c*, *t*, is common enough in MSS. wherever they concur in a word; **ineptias** is found in several, and *elatio* in one of the inferior MSS. Halm has conjectured **multa sunt inepta usque ad s. i.**

librariolis. Whether we take this as masculine (fr. *librarius*), or neuter (fr. *librarium*), the diminutive form would seem to be sneeringly used with reference to Macer's antiquarian researches; he is said to have made especial use of the *libri lintei*. (Lewis, *early R. H.* Vol. I. ch. 5.). Ernesti explains **copia** as referring to the stores of Greek books; the allusion is rather to the fluency of the writers; **ex**="after the style of."

Sisenna. *L. Cornelius Sisenna* (*Praetor U. C.* 676.), wrote a history, from the Marsic war to that of Sulla and Marius. In the *Brutus* (LXXV. 260.) Atticus calls him *meus familiaris;* hence it has been proposed to read **meus** for **eius** here.

neque orator...et. "*Not only* as an orator...*but even, &c.*" **neque ...et** like the Greek οὐχ ὅπως...ἀλλὰ καί, signifies that so far is the speaker from asserting the former to be correct, that he considers pretty nearly the opposite to be the case. (See Key's *L. G.* §. 1443., Madvig §. 433, obs. 2.).

Clitarchum. A contemporary and historian of Alexander the Great. cp. *ad Attic.* II. x. 3.

nisi quid. Bake quotes Plato, *Cratyl.* 427. D. εἰ μή τι ἄλλο Κράτυλος ὅδε λέγει.

§. 8. **capiat.** Bake and Feldh. prefer this reading to **capiatur** which Halm adopts. According to Bake *capiat=capere eum oporteat*, cp. Cic. *pro Mil.* 2. (Madvig, *L. G.* 356, obs. 2.).

deposcit, ut ea conplectatur, quibus ipse interfuit. *Att.* Ego vero huic potius adsentior; sunt enim maximae res in hac memoria atque aetate nostra; tum autem hominis amicissimi Cn. Pompei laudes inlustrabit, incurret etiam in illum * * et memorabilem annum suum: quae ab isto malo praedicari quam, ut aiunt, de Remo et Romulo. *M.* Intellego equidem a me istum laborem iam diu postulari, Attice: quem non recusarem, si mihi ullum tribueretur vacuum tempus et liberum; neque enim occupata opera neque inpedito animo res tanta suscipi potest: utrumque opus est, et cura vacare et negotio. 9. *Att.* Quid? ad cetera, quae scripsisti plura quam quisquam e nostris, quod tibi tandem tempus vacuum fuit concessum? *M.* Subsiciva quaedam tempora incurrunt, quae ego perire non patior, ut, si qui dies ad rusticandum dati sint, ad eorum numerum adcommodentur quae scribimus. Historia vero nec institui

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in hac memoria. "Those times which *we* remember." For this use of the pronoun *hic*, see Key (*L. G.* §. 1091); **aetate nostra** is added *per epexegesin.*

illum * * et. Some epithet has apparently fallen out, Halm suggests **inclutum,** Vahlen **divinum**; Turnebus prefers **illummet,** but the suffix **met** would be superfluous here. Both Cicero and Atticus appear to have written short sketches of this famous *consulatus,* cp. *ad Attic.* II. 1.

ut aiunt. Constantly introduces a proverbial expression, §. 49. *n.*

recusarem—tribueretur. In propositions of this kind, one is apt to be misled by our English idiom; *i. e.* we must not translate "I *would* not refuse...if there *were,* &c., but "would not have...if there had been;" since our English '*would*' and '*were to*' in hypothetical propp. refer to possible or future, not to impossible and past events. (See Key, *L. G.* §§. 496, and 1209.).

utrumque. In this construction, *opus* stands as a predicate; *et cura, &c.,* being taken as the subject, in app. with *utrumque.* (Madvig *L. G.* §. 296.).

§. 9. **ad eorum numerum.** *i. e.* I do not undertake more than I can finish in the given time. This is Feldh's. explanation after Turnebus. Görenz thought that "*si qui dies, &c.*" was the subject of **accommodentur,** *ad eorum numerum* being a mere periphrasis for *ad ea.* It seems much better with Turnebus to make *ea quae scrib.* the subject.

potest nisi praeparato otio nec exiguo tempore absolvi; et ego animi pendere soleo, cum semel quid orsus *sum*, si traducor alio, neque tam facile interrupta contexo quam absolvo instituta. 10. *Att.* Legationem aliquam nimirum ista oratio postulat aut eius modi quampiam cessionem liberam atque otiosam. *M.* Ego vero aetatis potius vacationi confidebam, cum praesertim non recusarem quo minus more patrio sedens in solio consulentibus responderem senectutisque non inertis grato atque honesto fungerer munere. Sic enim mihi liceret et isti rei, quam desideras, et multis uberioribus atque maioribus operae quantum vellem dare.

IV. 11. *Att.* Atqui vereor ne istam causam nemo noscat tibique semper dicendum sit, et eo magis, quod te ipse mutasti et aliud dicendi instituisti genus, ut, quem ad modum Roscius, familiaris tuus, in senectute numeros in cantu remiserat ipsasque tardiores fecerat

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praeparato. "Secured beforehand," opp. to the "odd times," which casually occur.

animi. A 'locative' case. (Madv. *L. G.* 296. *b.* and Key §. 114.).

orsus sum si. MSS. omit **sum.** Bake would read **orsus sic traducor,** assigning to **sic** the force of *repente.*

§. 10. **ista oratio.** "That language of yours," *i. e.* about the "*præparato otio.*" Bake interprets "*istud scribendi genus,*" *i. e.* "*historia.*"

cessionem. "Retirement;" as this meaning of *cessio* is unusual, though common enough in the verb *cedere,* some Editors have preferred the *v. l.* **cessationem.** On the *legatio lib.* see III. §. 18. *n.*

vacationi. Turnebus quotes Seneca (*de brev. vitae,* xx.). "*Lex a quinquagesimo anno militem non cogit, a sexagesimo senatorem non citat.*" cp. Nepos (*Attic.* VII. 1.).

§. 11. **istam causam.** cp. §. 42. "*recognise that plea of yours.*"

Roscius. The famous comic actor, in whose behalf Cicero delivered (*U. C.* 678.), the oration *pro Q. Roscio Comoedo.*

remiserat. A conjecture of Lambin's adopted by Halm. cp. *de Orat.* I. LX. 254. "*Solet idem Roscius dicere, se, quo plus sibi aetatis accederet, eo tardiores tibicinis modos, et cantus* **remissiores** *esse facturum.*" MSS. have **cecinerat** or **reciderat.** Those who read **reciderat** or **ceciderat** explain "cut down, *i. e.* lowered."

tibias, sic tu a contentionibus, quibus summis uti solebas, cotidie relaxes aliquid ut iam oratio tua non multum a philosophorum lenitate absit: quod sustinere cum vel summa senectus posse videatur, nullam tibi a causis vacationem video dari. 12. *Q.* At me hercule ego arbitrabar posse id populo nostro probari, si te ad ius respondendum dedisses. Quam ob rem, cum placebit, experiundum tibi censeo. *M.* Si quidem, Quinte, nullum esset in experiundo periculum: sed vereor ne, dum minuere velim laborem, augeam atque ad illam causarum operam, ad quam ego numquam nisi paratus et meditatus accedo, adiungatur haec iuris interpretatio, quae non tam mihi molesta sit propter laborem, quam quod dicendi cogitationem auferat, sine qua ad nullam maiorem umquam causam sum ausus accedere. 13. *Att.* Quin igitur ista ipsa explicas nobis his subsicivis, ut ais, temporibus et conscribis de iure civili subtilius quam ceteri? Nam a primo tempore aetatis iuri studere te memini, quom ipse etiam ad Scaevolam ventitarem, neque umquam mihi visus es ita te ad

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contentionibus. A metaph. from the strings of the lyre. Cicero (*Brut.* XCI. 313.), tells us that, in his youth, he used to speak "*sine* **remissione,** *sine varietate, vi summa vocis et totius corporis* **contentione.**"

§. 12. **Si quidem.** MSS. exhibit **id si** q. which Feldh. defends as a case of *anacoluthon;* since Cicero might have said **id si nullum periculum esset experiri.**—**dicendi c.** "the thought and preparation necessary for speaking."

auferat. The conjunctive is required, because Cicero is not stating a fact simply, but a contingency. Bake misses the *ultima manus* of the author in this apparent redundancy **ad quam cet.** and **sine qua.** In the speech called *Divinatio in Caecilium* (c. XIII. 42.) Cicero gives a lively description of the anxiety which he felt on the eve of an important case.

§. 13. **Quin.** *lit.* "Why not?" Hence the imperative force, "Come explain."

Scaevolam. Cicero says (*Brut.* LXXXIX. 306). "*Ego autem iuris civilis studio multum operae dabam Q. Scaevolae Q. F.* (**Pontif. Max. Cos.** *U. C.* 659.) *qui quamquam nemini se ad docendum dabat, tamen consulentibus respondendo studiosos audiendi docebat.*"

ventitarem. With this use of the 'frequentative' cp. φοιτᾶν which is the Greek phrase for attending Lectures. As Feldh. observes, this is a "causal" conjunctive.

dicendum dedisse, ut ius civile contemneres. *M.* In longum sermonem me vocas, Attice, quem tamen nisi Quintus aliud quid nos agere mavult, suscipiam et, quoniam vacui sumus, dicam. *Q.* Ego vero libenter audierim; quid enim agam potius aut in quo melius hunc consumam diem? 14. *M.* Quin igitur ad illa spatia nostra sedesque pergimus? ubi, cum satis erit ambulatum, requiescemus; nec profecto nobis delectatio deerit aliud ex alio quaerentibus. *Att.* Nos vero, et hac quidem ad Lirem si placet, per ripam et umbram. Sed iam ordire explicare, quaeso, de iure civili quid sentias. *M.* Egone? summos fuisse in civitate nostra viros, qui id interpretari populo et responsitare soliti sint, sed eos magna professos in parvis esse versatos. Quid enim est tantum quantum ius civitatis? quid autem tam exiguum quam est munus hoc eorum, qui consuluntur? quamquam est

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§§. **14—17.** The general plan and scope of this treatise are set forth. Marcus, disdaining the narrow field of utilitarian Jurists, proposes to trace Law and Justice to the fountain head, showing that it is inseparably connected with the nature of man; he will then consider by what laws states ought to be governed; and afterwards review those codes and forms of legislation, which have been in vogue among different nations; more especially those of his own countrymen. The key note of the dialogue is struck by Atticus; when he suggests that, as Plato had supplemented his Constitution by a code of laws, Cicero should do the same by his.

§. **14.** **nos vero.** We must understand some verb. Bake suggests *volumus*.

ad Lirem. Bake and Vahlen. MSS. vary between **adirem** and **adire.** Halm brackets **adire** as spurious; Feld. defends it. The mention of the *Fibrenus* (II. §. I.) as the name of the *other* stream seems to presume a knowledge of the former. *Ad Lirem*, according to Vahlen, indicates generally the locality, "*i. e.* near the Liris:" *per ripam* marking out the road more exactly.

ius civitatis, and **ius civile**, were originally synonymous terms, although the latter is frequently used in a narrower sense to denote either the *ius privatum*, or the opinions, (*responsa*) of the Jurists. These opinions were frequently cited in court; where they carried pretty much the same authority as the opinion of an eminent writer on Jurisprudence would in our law courts. (See Ernesti, *Clav. Cic.;* Maine, *Ancient Law* ch. ii.).

eorum qui co. a periphrasis for *iuris-consulti;* according to Bach (*Hist. Jurisprud. Rom.*) the duty of the *Jcti* was threefold, (1) **respondere**

populo necessarium. Nec vero eos, qui ei muneri praefuerunt, universi iuris fuisse expertis existimo, sed hoc civile quod vocant eatenus exercuerunt, quoad populo praestare voluerunt; id autem in cognitione tenue est, in usu necessarium. Quam ob rem quo me vocas? aut quid hortaris? ut libellos conficiam de stillicidiorum ac de parietum iure? an ut stipulationum et iudiciorum formulas conponam? quae et conscripta a multis sunt diligenter et sunt humiliora quam illa, quae a nobis exspectari puto.

V. 15. *Att.* Atqui, si quaeris, ego quid exspectem, quoniam scriptum est a te de optimo rei publicae statu, consequens esse videtur ut scribas tu idem de legibus: sic enim fecisse video Platonem illum tuum, quem tu admiraris, quem omnibus anteponis, quem maxime diligis. *M.* Visne igitur, ut ille Crete cum Clinia et cum Lacedaemonio Megillo, aestivo, quem ad modum

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giving a legal opinion when consulted; (2) **scribere.** prescribing the proper legal forms (*legis actiones*) for particular proceedings; (3) **cavere.** guarding their clients against possible loss through ignorance of the law, (See also Long's note on *Pro Murena*, cp. IX.).

universi iuris. Law, in the widest sense of the word, opp. to **civile quod vocant**, *i. e.* the forms and usage of the law courts.

populo praestare. "*sc.* **ius civile**, *i. e. cavere ut jus civ. si quando eius usus sit, populo sit paratum.*" *Feldhügel.* For this use of *praestare* = *cavere ut sit*, he compares *ad Attic.* X. iv. 5., *ad Fam.* III. x. 3. Davies defends the *v. l.* **populum**, explaining thus "*qui* **populum praestat,** *is eius quasi* **praes** *est, illumque periculo liberat.*"

in cognitione. Madvig, Klotz and others. MSS. have **incogniti de tenui est.** Halm conjectures **ut cog. ten. est, ita usu.** "*theoretically* unimportant but *practically* indispensable." **id** of course refers to this limited sense of the **ius civile.**

stillicidiorum. cp. II. §. 47., *pro Murena* IX. 22. *ille tenet et scit ut hostium copiae; tu ut aquae pluviae arceantur.*

an ut...Moser and Ernesti read **aut ut** (see Madvig, *L. G.* §. 453.); also **a vobis** for **a nobis.**

§. 15. **ut ille.** Turnebus remarks that Cicero assumes that Plato himself is the "Athenian stranger," to whom the principal part in the dialogue is assigned.

aestivo—insistens. Plato, *Legg.* I. 625, B. καὶ μὴν ἔστι γε, ὦ ξένε, προϊόντι κυπαρίττων τε ἐν τοῖς ἄλσεσιν ὕψη καὶ κάλλη θαύμασια, καὶ λειμῶνες ἐν οἷσιν ἀναπαυόμενοι διατρίβοιμεν ἄν.

describit, die in cupressetis Gnosiorum et spatiis silvestribus, crebro insistens, interdum adquiescens, de institutis rerum publicarum ac de optimis legibus disputavit, sic nos inter has procerissimas populos in viridi opacaque ripa inambulantes, tum autem residentes, quaeramus isdem de rebus aliquid uberius quam forensis usus desiderat? **16.** *Att.* Ego vero ista audire cupio. *M.* Quid ait Quintus? *Q.* Nulla de re magis. *M.* Et recte quidem. Nam sic habetote, si ullo in genere disputandi, in hoc ista patefieri, quid sit homini a natura tributum, quantam vim rerum optimarum mens humana contineat, cuius muneris colendi efficiendique causa nati et in lucem editi simus, quae sit coniunctio hominum, quae naturalis societas inter ipsos: his enim explicatis fons legum et iuris inveniri potest. **17.** *Att.* Non ergo a praetoris edicto, ut plerique nunc, neque a duodecim tabulis, ut superiores, sed penitus ex intima philosophia hauriendam iuris disciplinam putas. *M.* Non enim id quaerimus hoc sermone, Pomponi, quem ad modum caveamus in iure aut quid de quaque consultatione respondeamus. Sit ista res magna, sicut est, quae quondam a multis claris viris, nunc ab uno summa

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§. 16. **si ullo.** This is Halm's conjecture, adopted by Klotz and others. The best MSS. have **nullo in genere disputando** (corr. **disputandi**) **honesta.** *Vulgate* **nullo in genere disputandi magis honeste patefieri.** Vahlen *disputando posse ita.* Bake remarks that *disputandi* here = *philosophiae* cp. §. 36. III. §. 14. *n.*

homini a natura. Halm omits the preposition here and in §. 33. but, as Feldh. says, *Natura* is rather an *agent* than a *cause*, (see §. 18. *n.*). Bake notices that these questions (**quid sit—ipsos.**) are answered (1) **quid sit h. cet.** in c. VII. sq. (*ratio et cogitatio*); (2) **quantam vim cet.** c. IX. (*inchoatae intelligentiae et semina virtutum.*); (3) **cuius muneris cet.** c. XII. (*ad participandum...ius.*); (4) **quae n. societas.** in cpp. X. *sqq.*

§. 17. **edicto.** cp. III. §. 8. *n.* (Dict. Ant. *Praetor urbanus.*).

superiores. *e. g.* S. Ælius and L. Acilius II. §. 59.

in iure. the technical term for "proceedings before the Praetor" as distinguished from **in iudicio,** *i. e.* "before the *iudex*".

uno. viz. S. Sulpicius Rufus (Cos. *U. C.* 703.). cp. *Brut.* c. XLI.

auctoritate et scientia sustinetur, sed nobis ita conplectenda in hac disputatione tota causa est universi iuris ac legum, ut hoc civile quod dicimus in parvum quendam et angustum locum concludatur. Natura enim iuris explicanda nobis est eaque ab hominis repetenda natura, considerandae leges, quibus civitates regi debeant; tum haec tractanda quae conposita sunt et descripta iura et iussa populorum, in quibus ne nostri quidem populi latebunt quae vocantur iura civilia. VI. 18. *Q.* Alte vero et, ut oportet, a capite, frater, repetis quod quaerimus; et qui aliter ius civile tradunt, non tam iustitiae quam litigandi tradunt vias. *M.* Non ita est, Quinte, ac potius ignoratio iuris litigiosa est quam scientia. Sed hoc posterius: nunc iuris principia videamus.

Igitur doctissimis viris proficisci placuit a lege, haud scio an recte, si modo, ut idem definiunt, lex est ratio summa, insita in natura, quae iubet ea quae facienda sunt prohibetque contraria. Eadem ratio cum est in hominis mente confirmata et perfecta, lex est. **19.**

He wrote the famous letter of condolence to Cicero, on the death of Tullia. *ad Div.* IV. 5.

composita et descripta. "compiled and reduced to a system or code." Bake says *composita* = *conscripta.* (see III. §. 7. *n.*).

§.§. 18.—20. Purposing to investigate the sources of justice, Cicero adopts the Stoic definition of **Law**, as a supreme reason pervading the universe, enjoining what is right and forbidding what is wrong. This reason, in its most perfect human manifestation (*i. e.* in the mind of the Stoic 'sage'; when it is either called *sapientia* or, with reference to its power of discriminating between good and evil, *prudentia*), is the true human **Law**. Accordingly, as Cicero aims to accommodate his laws to that perfect constitution (his own *de Rep.*), he will take this as his starting point.

§. 18. **haud scio an.** "I am inclined to think" (Madvig, *L. G.* §. 453.).

ratio summa. the λόγος ἄκρος of the Stoics. With them, as Turnebus observes, **God, Nature, Fate** and **Reason**, were nearly synonymous. God being looked upon as the Soul of the Universe which, in its turn, is also spoken of as God. cp. Cic. *Somn. Scip.* XXV. 26. *mens cuiusque is est quisque.* Madvig omits **in** before **natura.**

Itaque arbitrantur prudentiam esse legem, cuius ea vis sit, ut recte facere iubeat, vetet delinquere: eamque rem illi Graeco putant nomine a suum cuique tribuendo appellatam, ego nostro a legendo. Nam ut illi aequitatis, sic nos delectus vim in lege ponimus, et proprium tamen utrumque legis est. Quod si ita recte dicitur, ut mihi quidem plerumque videri solet, a lege ducendum est iuris exordium; ea est enim naturae vis, ea mens ratioque prudentis, ea iuris atque iniuriae regula. Sed quoniam in populari ratione omnis nostra versatur oratio, populariter interdum loqui necesse erit et appellare eam legem, quae scripta sancit quod vult aut iubendo *aut prohibendo*, ut vulgus appellat. Constituendi vero iuris ab illa summa lege capiamus exordium, quae saeclis omnibus ante nata est quam scripta lex ulla aut quam omnino civitas constituta.

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confirmata. Nature has endowed each man with a portion of the divine *ratio*, this is matured by experience. cp. §. 27.

§. 19. **prudentiam.** cp. *de N. D.* III. 15, 38. "**Prudentiamne** *deo tribuemus, quae constat ex* **scientia rerum bonarum et malarum**...? *Cui mali nihil est nec esse potest, quid huic opus est* **delectu** *bonorum et malorum?*" 'Prudentia' or φρόνησις was thus, of necessity, the sovereign virtue of the Stoics, since it was the discriminator between right and wrong. It is, as we see, a manifestation in man of the **Summa Ratio**, *i. e.* of the Deity. (Preller, *Hist. Phil.* §. 422.).

Graeco. *νόμος* fr. *νέμειν*. cp. Plato, *Legg.* IV. 714. A; and *Rep.* I. 331., where one of the interlocutors gives the same def. of justice as Cicero, *de Fin.* V. 23. 65. *suum cuique tribuere.*

delectus. *sc.* **bonorum et malorum.** *N. D.* III. 15. *l. c.*

plerumque. "generally:" Turnebus remarks that Cicero speaks as an Academic "*nihil magnopere affirmans.*"

prudentis. Halm and Baiter, apparently by inadvertence, edit **prudens**; the definitions of **lex** are recapitulated, from the previous section.

populari ratione. "*i. e. omnis nostra oratio versatur in quaestione quae universum populum attingat*" Feldh. There is apparently an intentional play upon the different senses of the word ratio.

eam...quae. by attraction = *id...quod.* (See Madv. *L. G.* §. 315.). for **scripta** others read **scripto.**

aut prohibendo. Baiter. These words are wanting in MSS. cp. §. 18. others supply **aut vetando.**

saeclis. So Sophocles says of the *ἄγραπτα θεῶν νόμιμα—οὐ γάρ τι νῦν τε κἀχθὲς ἀλλ' ἀεί ποτε ζῇ ταῦτα κοὐδεὶς οἶδεν ἐξ ὅτου 'φάνη.* (Antig. 451. *sqq.*).

20. *Q.* Commodius vero et ad rationem instituti sermonis sapientius. *M.* Visne ergo ipsius iuris ortum a fonte repetamus? quo invento non erit dubium quo sint haec referenda, quae quaerimus. *Q.* Ego vero ita esse faciendum censeo. *Att.* Me quoque adscribito fratris sententiae. *M.* Quoniam igitur eius rei publicae, quam optimam esse docuit in illis sex libris Scipio, tenendus est nobis et servandus status omnesque leges adcommodandae ad illud civitatis genus, serendi etiam mores, nec scriptis omnia sancienda, repetam stirpem iuris a natura, qua duce nobis omnis est disputatio explicanda. *Att.* Rectissime, et quidem ista duce errari nullo pacto potest.

VII. 21. *M.* Dasne igitur hoc nobis, Pomponi,—

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§. 20. **visne.** According to Bake, this is one of those passages which the author would have cut down on revision; since it is superfluous after what has gone before. It may, however, be defended on dramatic grounds, as serving to keep the other characters of the dialogue in view by requiring them to give their assent in the shape of a formal resolution.

adscribito. *v. l.* **adscribe.** Bake compares καὶ ἐμέ—κοινωνὸν τῆς ψήφου ταύτης τίθετε. (Plato, *Rep.* v. 450.).

Scipio. P. C. S. Æmilianus, the principal speaker in Cicero's *de Republica*. cp. III. §. 12.

serendi. cp. *Tuscul.* I. 14. "*arbores* **serit** *agricola vir magnus leges, instituta, rempublicam non* **seret**? According to Feld. the argument is this: "since we have to suit our legislation to our ideal state, in which not every thing is to be ordained by written laws, but some things are to be regulated by the *mores*, we must needs arouse in our citizens a sense of justice; which will be the more readily effected, if we take nature as its source."

ista duce. Atticus, as an Epicurean, readily assents to this; but the next proposition directly contradicts the dogma of his master τὸ μακάριον καὶ ἄφθαρτον οὔτ' αὐτὸ πράγματα ἔχει οὔτ' ἄλλῳ παρέχει (Preller, *H. P.* §. 385.).

§. §. 21—27. First obtaining from Atticus the concession that the Universe is governed by the power of the Gods; Cicero says that the Supreme God has created man with a glorious lot; since he is the only creature gifted with reason. And, as both Gods and men possess this, man has community with the Gods in Reason, and therefore (§. 18) in Justice. Again, since those who have community in law and are subject to the same powers, may be considered to be members of the same state; Gods and men may be regarded as fellowcitizens of the Universe. Man is also connected with the Gods by descent, because his reason was engendered in him by the Supreme God: the universal

nam Quinti novi sententiam—deorum inmortalium vi, [natura] ratione, potestate, mente, numine, sive quod est aliud verbum, quo planius significem quod volo, naturam omnem regi? nam si hoc non probas, ab eo nobis causa ordienda est potissimum. *Att.* Do sane, si postulas; etenim propter hunc concentum avium strepitumque fluminum non vereor condiscipulorum ne quis exaudiat. *M.* Atqui cavendum est; solent enim, id quod virorum bonorum est, admodum irasci, nec vero ferent, si audierint te primum caput viri optimi prodidisse, in quo scripsit **nihil curare deum nec sui nec alieni.** 22. *Att.* Perge, quæso: nam id, quod tibi concessi, quorsus pertineat exspecto. *M.* Non faciam longius; huc enim pertinet, animal hoc providum, sagax, multiplex, acutum, memor, plenum rationis et consilii, quem vocamus hominem, praeclara quadam conditione generatum esse a supremo deo. Solum est enim ex tot animantium generibus atque

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belief in the existence of a God, is evidence of this relationship. Moreover virtue, which is nothing more than the perfection of nature, exists both in God and man. Man is therefore closely allied with the Gods. On this account, it may be concluded that his many advantages were designedly bestowed upon him by Nature; which has also given to him, not only senses, but mental powers and rudimentary ideas; starting from which his reason may become that perfect reason, which has been stated to be (§. 18.), the true human Law.

vi natura. Feldh. defends **natura,** which some would omit, on the ground that the evenness of the enumeration would be destroyed by its omission.

fluminum, *i. e.* Liris and Fibrenus II. §. 6.

exaudiat. "overhear," cp. *ἐξακούειν.*

viri. *v. l.* **libri.** cp. *Acad.* II. 32. 101. The *κύριαι δόξαι* of Epicurus are alluded to. "*Itaque in illis selectis eius (Epicuri) brevibusque sententiis, quas appellatis κυρίας δόξας haec, ut opinor, prima sententia est;*" **Quod beatum et immortale est, id nec habet nec exhibet cuiquam negotium.** (*N. D.* I. 30. 85.) A literal rendering of the dogma quoted above.

§. **22. animal.** Bake compares *Fin.* II. 14. 45. where Cicero apologises for using the epithet *sagax* (*keen—scented*) and explains *multiplex* as "*celerrime multa simul agitans.*"

naturis particeps rationis et cogitationis, cum cetera sint omnia expertia. Quid est autem non dicam in homine, sed in omni caelo atque terra, ratione divinius! quae cum adolevit atque perfecta est, nominatur rite sapientia. 23. Est igitur, quoniam nihil est ratione melius eaque *est* et in homine et in deo, prima homini cum deo rationis societas. Inter quos autem ratio, inter eosdem etiam recta ratio est communis. Quae cum sit lex, lege quoque consociati homines cum dis putandi sumus. Inter quos porro est communio legis, inter eos communio iuris est. Quibus autem haec sunt inter eos communia, ei civitatis eiusdem habendi sunt. Si vero isdem imperiis et potestatibus parent, multo iam magis. Parent autem huic caelesti discriptioni mentique divinae et praepotenti deo: ut iam universus hic mundus una civitas *sit* communis deorum atque hominum existi-

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§. 23. **eaque est.** Madvig and Vahlen. **estque** Halm. MSS. have **eaque** without **est.** The omission of **est** may be defended, says Feldhügel, if we consider the former **est** (*nihil* **est** *melius*) not as a copula but a verb substantive; but Madvig's reading has the advantage of simplicity.

prima. "first in importance," because "*nihil est ratione melius.*"

inter eos communia. Haase defends this use of the demonstrative instead of the reflexive pronoun. Halm would either omit **inter eos** or correct **ipsos.** (Madvig. *L. G.* §. 490).

ei civitatis. Bake. MSS. have **et civitatis.** Wyttenbach remarks that it was probably this notion of the Stoics which suggested to St. Austin his "*De civitate Dei.*" cp. Cic. *N. D.* II. 62.

caelesti discriptioni. cp. *Somn. Scipionis.* c. XVII. "*Novem orbibus vel potius globis connexa sunt omnia: quorum unus est caelestis, extimus, qui reliquos omnes complectitur,* **summus ipse deus,** *arcens et continens ceteros.*" The principal difficulty is that God is, at one time, conceived as identical with **Natura** (cp. §. 18.) *i. e.* the all pervading Spirit of the Universe, and at another time as a Being distinct from and subject to it. cp. Cic. *N. D.* II. 30. 75.

ut iam—civitas sit. In the MSS. **sit** is omitted, but it seems better with Görenz, Schütz, &c. to suppose that it has dropped out (the compendium **st** would readily be confounded with the final **s** of *civitas* and the initial **c** of *communis*) than to read **est igitur** for **ut iam** with Halm.

manda. Et quod in civitatibus ratione quadam, de qua dicetur idoneo loco, agnationibus familiarum distinguuntur status, id in rerum natura tanto est magnificentius tantoque praeclarius, ut homines deorum agnatione et gente teneantur.

VIII. 24. Nam cum de natura omni quaeritur, disputari solet—et nimirum ita est, ut disputatur,—perpetuis cursibus conversionibusque caelestibus exstitisse quandam maturitatem serendi generis humani, quod sparsum in terras atque satum divino auctum sit animorum munere, quomque alia quibus cohaererent homines e mortali genere sumpserint, quae fragilia essent et caduca, animum esse ingeneratum a deo. Ex quo vere vel agnatio nobis cum caelestibus vel genus

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Et quod—distinguuntur. Bake explains this as a *breviloquentia* for "*quod...fit, ut......distinguantur.*" (See Madvig *L. G.* §. 398. *b.*).

agnationibus. "Kinship on the father's side." Feldh. thinks that there is no allusion here, as some have thought, to the distinction between Patrician and Plebeian families of the same *Gens.* He says, "*Generatim loquitur de omnibus familiarum statibus, qui* **agnationibus** *i. e. virilis sexus origine dicuntur distingui ab aliis familiis, ut qui agnati sunt eadem familia contineantur.*" **familiarum** *is to be taken with* **status.**

homines deorum. cp. Pindar, *Nem.* VI. I. *ἓν ἀνδρῶν ἓν θεῶν γένος.* Cleanthes, *hymn. in Jov. ἐκ σοῦ γὰρ γένος ἐσμέν.*

§. **24. natura omni.** Feldh. defends this reading of the best MSS. "*natura omnis*" (*all Nature*) = "*rerum natura*" as in §. 21. (See Munro, *Lucret.* I. 25.). Halm adopts the emendation **hominis** for **omni.**

et nimirum ita est, ut disputatur. Vahlen after Schoemann. MSS. have the plural, **quaeruntur-solent-sunt-disputantur.** Halm inclines to the idea that "**nimirum—disputantur**" is spurious. Davies would read **ista** for **ita.**

nimirum. = '*nisi est mirum*' (Munro, *Lucret.* I. 277.)

maturitatem. quoted by Lactantius *Inst. div.* II. II., who compares Lucretius (V. 800. foll. the Epicurean *Genesis*). So in the Timaeus (which Cicero translated), we are told that the bodies of men were created by the lower Gods; whereas their souls were given to them by the Supreme God. Feldh. remarks that from this notion of 'sowing' the "**Summus Deus**" was also called *σπερματικὸς λόγος*, by the Stoics.

cohaererent. Cicero is stating the opinions of others, hence the conjunctive. (Madv. *L. G.* §. 369.).

vel stirps appellari potest. Itaque ex tot generibus nullum est animal praeter hominem, quod habeat notitiam aliquam dei, ipsisque in hominibus nulla gens est neque tam mansueta neque tam fera, quae non, etiam si ignoret qualem habere deum deceat, tamen habendum sciat. **25.** Ex quo efficitur illud, ut is agnoscat deum, qui, unde ortus sit, quasi recordetur [agnoscat]. Iam vero virtus eadem in homine ac deo est neque alio ullo *in* ingenio praeterea; est autem virtus nihil aliud nisi perfecta et ad summum perducta natura: est igitur homini cum deo similitudo. Quod cum ita sit, quae tandem esse potest propior certiorve

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appellari potest. An abbreviation for "*id quod nobis cum divis intercedit eiusmodi est ut vel agnatio...appellari possit.*" Bake: cp. *de N. D.* II. 20. 51. "*quarum ex disparibus motionibus magnum annum mathematici nominaverunt.*" Wyttenbach calls attention to a similar use of *καλεῖν* in Greek.

Itaque. Bake quotes Plato, *Protag.* 322. A. *ἐπειδὴ δὲ ὁ ἄνθρωπος θείας μέτεσχε μοίρας, πρῶτον μὲν διὰ τὴν τοῦ θεοῦ συγγένειαν ζώων μόνον θεοὺς ἐνόμισε.*

notitiam "preconception," the *πρόληψις* of Epicurus, which Cicero defines (*N. D.* I. 16.) "*antecepta animo rei quaedam informatio.*" (See Munro, *Lucret.* v. 182. and Fleming's Vocab. of Philosophy, *Anticipation.*).

tam mansueta. Some editors have preferred **immansueta,** but Feldh. shows that this is unnecessary, since the meaning is "there is no nation of *any description,* &c." cp. *de Div.* I. i. 2.

§. 25. **is agnoscat-[agnoscat].** Cannegieter's **ac noscat** is probable, but Davies would omit the second '**agnoscat,**' because it is omitted by Lactantius, who quotes this passage (*Inst. Div.* III. 10.). Turnebus would read **is se agnoscat—et agnoscat.** But, as Bake says, it is the universal belief in the existence of a God which has to be accounted for; cp. Plato *Legg.* x. 899. D. *ὦ ἄριστε δὴ φῶμεν, ὅτι μὲν ἡγεῖ θεοὺς, ξυγγένειά τις ἴσως σε θεία πρὸς τὸ ξύμφυτον ἄγει τιμᾶν καὶ νομίζειν εἶναι.*

ullo in ingenio. Davies reads **in genere.** As MSS. omit **in,** unless **ingenio** is an ablative of quality, the question arises whether the preposition should be repeated; for the omission Feldh. quotes Cic. *Verr.* II. 3. 7. "*ad nostram disciplinam illam veterem, non hanc quae nunc increbuit.*" (Madv. *L. G.* §. 470.) '**ingenio**' they explain as "nature (*i. e.* of some living thing)." The Stoics maintained *εἶναι τὴν αὐτὴν ἀρέτην καὶ ἀλήθειαν ἀνδρὸς καὶ θεοῦ.* *Themist. Orat.* II. 27. quoted by Davies.

nisi perfecta. *v. l.* **quam in se p.** Here **natura** corresponds to **ratio.** cp. §. 45.

cognatio? Itaque ad hominum commoditates et usus tantam rerum ubertatem natura largita est, ut ea, quae gignuntur, donata consulto nobis, non fortuito nata videantur, nec solum ea, quae frugibus atque bacis terrae fetu profunduntur, sed etiam pecudes, quarum perspicuum est partim esse ad usum hominum, partim ad fructum, partim ad vescendum procreatas. 26. Artes vero innumerabiles repertae sunt, docente natura, quam imitata ratio res ad vitam necessarias sollerter consecuta est.

IX. Ipsum autem hominem eadem natura non solum celeritate mentis ornavit, sed ei sensus tamquam satellites adtribuit ac nuntios, et rerum plurimarum obscuras nec satis * * intellegentias enudavit quasi fundamenta quaedam scientiae figuramque corporis habilem et aptam ingenio humano dedit. Nam cum

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profunduntur. Bake remarks that the *profusion* of these gifts is implied. Turnebus compares *N. D.* II. 62. *de Off.* I. 7. and *Tuscul.* I. 28., for this argument concerning a beneficent Providence; Moser observes that Chrysippus had treated the same subject in his *περὶ προνοίας*.

quarum perspicuum est. Halm adopts this conjecture of Bake's. MSS. have **quod p. sit**; which Feldh. retains. He thinks that this sentence contains the reason, *why* the animals are supposed to have been given to us by design; viz. "because it is manifest &c." He defends the subjunctive **sit** as a "*modestia quaedam affirmandi*" (Madv. *L. G.* §. 350. b.)

§. 26. **sed ei sensus.** For **ei** MSS. have **et**, which (or **etiam**) most editors retain.

obscuras nec satis. Many emendations of this passage have been proposed; but the more generally received opinion is that some adjective or participle such as, **claras**, **apertas**, or **illustratas** has fallen out. These **intellegentiae** are called *inchoatae* §. 30. and *adumbratae* §. 59. they are the *κοιναὶ ἔννοιαι* of the Stoics.

enudavit. MSS. Halm and others **inchoavit.** Possibly *enudavit* ('laid bare' 'discovered') may have been suggested by the metaphor *fundamenta.* Turnebus reads **enodavit**, cp. Cic. *Top.* c. VII. *notionem appello quam Graeci tum ἔννοιαν, tum πρόληψιν. Ea est insita et praecepta cuiusque cognitio* **enodationis** *indigens.*"

ceteras animantes abiecisset ad pastum, solum hominem erexit et ad caeli quasi cognationis domiciliique pristini conspectum excitavit, tum speciem ita formavit oris, ut in ea penitus reconditos mores effingeret. **27.** Nam et oculi nimis arguti, quem ad modum animo adfecti sumus, locuntur, et is, qui appellatur vultus, qui nullo in animante esse praeter hominem potest, indicat mores, cuius vim Graeci norunt, nomen omnino non habent. Omitto opportunitates habilitatesque reliqui corporis, moderationem vocis, orationis vim, quae conciliatrix est humanae maxime societatis; neque enim omnia sunt huius disputationis ac temporis et hunc locum satis, ut mihi videtur, in iis libris, quos legistis, expressit Scipio. Nunc quoniam hominem, quod principium reliquarum rerum esse voluit, generavit et ornavit deus, perspicuum sit illud, ne omnia disserantur, ipsam per se

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abiecisset. "debased." Bake quotes Plato, *Rep.* IX. 586. A. *βοσκημάτων δίκην κάτω ἀεὶ βλέποντες καὶ κεκυφότες εἰς γῆν.* cp. Sallust, *Catil.* I. "*pecora quae natura prona atque ventri obedientia finxit.*" Ovid, *Met.* I. 84., Cic. *N. D.* II. 54.

§. 27. **nimis arguti.** "beyond measure quick in expression." (Curtius, *Gk. Etymol.*, connects *argutus* with *ἀργός*,—hence we readily arrive at the different meanings—'clear,' in sight and sound, and 'quick,' in motion.) Halm adopts a conjecture of Heidegger, **mimi arguti**; *mimi* had also suggested itself to Moser. cp. Ovid, *Amor.* III. iii. 9., Cic. *de Orat.* III. lix. 221. Huschke conj. **imprimis**, du Mesnil **mire.**

quemadmodum—sumus. Bake cj. **simus**; but, as Feldh. says, the sense is **ita** *loquuntur*, **ut** *affecti sumus.—nomen. i. e.* although *πρόσωπον* is equivalent to *vultus* (cp. *Tuscul.* III. 15. with Ælian. *Var. Hist.* IX. 7.) still it is not (as *vultus* fr. *volo*) etymologically significant of "will" or "expression."

conciliatrix. Turnebus remarks that Aristotle mentions the faculty of speech as a natural bond of society. *διότι δὲ πολιτικὸν ὁ ἄνθρωπος ζῷον ...δῆλον, οὐθὲν γὰρ μάτην ἡ φύσις ποιεῖ, λόγον δὲ μόνον ἄνθρωπος ἔχει τῶν ζῴων.* cp. Cic. *N. D.* II. 59. Horat. I. *Sat.* III. 104.

Scipio. cp. §. 20. Acc. to Lactantius this was in B. IV. of the *de Rep.*, part of which only is extant.

quod principium. Lambin conjectured *quem principem* but, as Feldhügel says, this is unnecessary since the form of the relative is often accommodated to the following instead of the preceding noun. (Madv. *L. G.* §. 316.)

naturam longius progredi: quae etiam nullo docente profecta ab iis, quorum ex prima et inchoata intellegentia genera cognovit, confirmat ipsa per se rationem et perficit.

X. 28. *Att.* Di inmortales, quam tu longe iuris principia repetis! atque ita, ut ego non modo ad illa non properem, quae exspectabam a te de iure civili, sed facile patiar te hunc diem vel totum in isto sermone consumere: sunt enim haec maiora, quae aliorum causa fortasse conplecteris, quam ipsa illa, quorum haec causa praeparantur. *M.* Sunt haec quidem magna, quae nunc breviter attinguntur, sed omnium, quae in homi-

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ab iis quorum. The Stoics likened the mind of a man, at his birth, to a tablet prepared for writing; on this tablet impressions received through the senses were inscribed. From the comparison of a number of these 'sensible impressions' (*φαντασίαι* or *visa*), were formed *ideas* or *notions*. If these 'notions' resulted from a natural and involuntary generalization, they were called indifferently *ἔννοιαι* or *προλήψεις*: if, on the other hand, the operation was artificial and intentional they were called *ἔννοιαι* only. Diog. L. (VII. 54.) defines *πρόληψις* as an *ἔννοια φυσικὴ τῶν καθόλου* *i. e.* "a natural perception of those things which are 'universal,' (in a number of *φαντασίαι*)." The human reason (*λόγος*), in virtue of which men are called 'rational' beings (*λογικοί*), was, they thought, completed from these natural ideas (*ἐκ τῶν προλήψεων συμπληροῦσθαι*) about the fourteenth year. Plutarch, *Plac. Phil.* IV. 11. (Ritter. *Hist. Phil.* §. 399.).

intellegentia. Feldhügel remarks that *intellegentia* is said *generally* in this place, whereas in §. 26. *intellegentiae* is to be understood *particularly* of the several 'notions'.

§§. 28—34. Marcus proceeds to show that man's nature has fitted him for the practice of Justice, which is based not on conventional opinion but on nature itself. This is manifest in the wonderful similarity and uniformity among men, as evinced by their community of ideas, language, reason (and therefore *Jus.* cp. §. 23.) and capability for virtue, (*i. e.* the perfectibility of their nature), as well as by their surprising agreement in their vices, likes and dislikes, &c. In fact, but for the influence of custom, false opinion, &c., Justice would have been equally cultivated by all; since all would have recognised the intimate connection and almost identity, which existed between themselves and their fellow-men. Thus, in the association of one perfect and uncorrupted nature (*sapiens*) with its fellow, we should have found that, as in the maxim of Pythagoras, each would have loved and been as ready to communicate with his neighbour as himself; since he would have recognised in him an *alter ego.*

num doctorum disputatione versantur, nihil est profecto praestabilius quam plane intellegi nos ad iustitiam esse natos neque opinione, sed natura constitutum esse ius. Id iam patebit, si hominum inter ipsos societatem coniunctionemque perspexeris. **29.** Nihil est enim unum uni tam simile, tam par, quam omnes inter nosmet ipsos sumus. Quod si depravatio consuetudinum, si opinionum vanitas non inbecillitatem animorum torqueret et flecteret, quocumque coepisset, sui nemo ipse tam similis esset quam omnes sunt omnium. Itaque quaecumque est hominis definitio, una in omnis valet. **30.** Quod argumenti satis est nullam dissimilitudinem esse in genere: quae si esset, non una omnis definitio contineret. Etenim ratio, qua una praestamus beluis, per quam coniectura valemus, argumentamur, refellimus, disserimus, conficimus

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§. 28. **neque opinione.** cp. *τό τε δίκαιόν φασι* (οἱ Στωϊκοὶ) *φύσει εἶναι καὶ μὴ θέσει.* Stobaeus, *Ecl.* II. 184. The Epicureans maintained that *τὸ τῆς φύσεως δίκαιόν ἐστι σύμβολον τοῦ συμφέροντος εἰς τὸ μὴ βλάπτειν ἀλλήλους μηδὲ βλάπτεσθαι.* "natural justice is a covenant of expediency for the prevention of mutual injury." Diog. L. X. 148. (Preller *Hist. Phil.* §§. 390. 427.).

§. 29. **depravatio.** cp. §. 47. *Tuscul.* III. i.

opinionum vanitas = '*opiniones vanae*' (κεναὶ δόξαι), so **inbecill. anim.** = '*inbecillos animos.*'

coepisset. Davies conj. **cupiiset**; but this is unnecessary since *cœpi* and *incipio* frequently mean "attempt" or "essay" (Munro, *Lucret.* I. 55.). But perhaps, it is better to explain, "in direction once taken." cp. *Lucret.* II. 160.

omnes sunt. Davies would read **essent.** But, as Feldh. says, the sense is "even if the evil influence of custom, &c. had not distorted man's nature, so as to make him a mass of inconsistency (*τὸ ὁμολογουμένως ζῆν* was the aim of the Stoic '*sapiens*'), still, even then, the similarity of the individual to himself, would not have been so great as the general likeness, which *now* exists between all." (Preller. *Hist. Phil.* §. 419.).

§. 30. **non una omnis.** For **omnis** others read **omnes** (on the spelling *-is* or *-es*, in the accus. pl. of adjectives and nouns whose gen. pl. ends in *-ium* and some others, see Munro, *Lucret.* Introd. p. 35.). This mode of argument from the definition is regular Stoic reasoning; Bake observes that the Stoics placed 'definition' among their modes of distinguishing truth from falsehood (*κριτήρια*). (Preller, *Hist. Phil.* §. 397.)

aliquid, [concludimus,] certe est communis, doctrina differens, discendi quidem facultate par. Nam et sensibus eadem omnia conprehenduntur, et ea, quae movent sensus, itidem movent omnium, quaeque in animis inprimuntur, de quibus ante dixi, inchoatae intellegentiae, similiter in omnibus inprimuntur, interpresque mentis oratio verbis discrepat, sententiis congruens. Nec est quisquam gentis ullius, qui ducem *naturam* nactus ad virtutem pervenire non possit.

XI. 31. Nec solum in rectis, sed etiam in pravitatibus insignis est humani generis similitudo. Nam et voluptate capiuntur omnes, quae etsi est inlecebra turpitudinis, tamen habet quiddam simile naturali bono; levitatis enim et suavitatis * * *

[concludimus]. Moser and Bake read **ac concludimus**, since it is clearly an interpretation of *conficimus:* this use of the *copula* (*i. e.* adding an explanatory synonym, = "I mean") is sufficiently trite. Halm thinks *concludimus* a gloss.

doctrina depends on *differens.* Schütz remarks that Ernesti and Davies mistook it for the nominative; as they would read *facultas* for *facultate.*

eadem omnia. Bake considers *eadem* a predicate, *i. e.* "all things are perceived the same." (cp. §. 47. '*quia non...in sensibus &c.*')

ea quae movent. *i. e.* τὰ φανταστά, the objects which produce the impressions (φαντασίαι cp. §. 27. *n.*), Locke's "objects of sensation."

interpresque. Bake and Halm prefer this reading to the *vulgate* **interpresque est—discrepans.**

§. 31. **ducem naturam.** Vahlen omits **naturam,** which is not found in the best MSS. Wagner thinks that **nactus** = *quum nactus sit* (Madv. *L. G.* §. 431. *b.*), Feldhügel "*cum nactus est*" cp. Tuscul. III. I. 2.

inlecebra. cp. *de Sen.* XIII. 44. "*Plato* (*Tim.* 69. D. μέγιστον κακοῦ δέλεαρ) *escam malorum appellat voluptatem, quod ea videlicet homines capiantur ut hamo pisces.*"

naturali. Vahlen prefers '*naturalis boni.*' If there is any distinction between the *genitive* and *dative* in this construction, the *genitive* would seem to imply the 'correspondence or identity' of one thing with another, (see §. 29.) while by the *dative* resemblance alone is signified. (Madv. *L. G.* §. 247. b.)

levitatis enim. After **suavitatis,** in A. about three words have been erased (according to Halm and others) while C (*Cod.* H.) exhibits

delectans, sic ab errore mentis tamquam salutare aliquid adsciscitur, similique inscientia mors fugitur quasi dissolutio naturae, vita expetitur, quia nos in quo nati sumus continet, dolor in maximis malis ducitur, cum sua asperitate, tum quod naturae interitus videtur sequi: 32. propterque honestatis et gloriae similitudinem beati qui honorati sunt videntur, miseri autem qui sunt inglorii. Molestiae, laetitiae, cupiditates, timores similiter omnium mentes pervagantur, nec, si opiniones aliae sunt apud alios, idcirco qui canem et faelem ut deos colunt, non eadem superstitione qua ceterae gentes conflictantur. Quae autem natio non comitatem, non benignitatem, non gratum animum et beneficii memorem diligit? quae superbos, quae maleficos, quae crudelis, quae ingratos non aspernatur, non

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levitatis enim et suavitatis est enim et suavitate. Following this clue I have ventured to propose **levitatis enim et suavitatis est, et suavitate delectans.** "For it is of the nature of the smooth and sweet, and delighting by its sweetness &c." This would supply the "three words" erased in A.; and, as Davies remarks, *levitas* and *asperitas* are naturally contrasted. The reading generally followed in this (acc. to Halm) *locus desperatus*, is that of Lambinus, **levitate enim et suavitate delectans.**

inscientia. Halm after Lambinus prefers this reading to the MSS. **inscitia**; the latter differs from the former much as "awkwardness" from "ignorance."

in quo. *sc.* **statu.** cp. *Fin.* iii. 5; Laert. VII. 85. *τὴν δὲ πρώτην ὁρμήν φασι* (*Stoici*) *τὸ ζῶον ἴσχειν ἐπὶ τὸ τηρεῖν ἑαυτό.* What really conduced to this end, therefore, was 'choiceworthy' (*ληπτόν*). Death was not *κακόν*, according to the Stoics, but simply *ἀποπροηγμένον* (*reiectum*) "a thing not to be preferred" (Preller, *Hist. Phil.* §. 420.). Cicero, apparently, had Plato in mind (*Phileb.* 31. D.).

§. 32. **inglorii. Molestiae.** A. has **ingloria**; Davies conj.

inglorii. Iam m. Turnebus remarks that by *molestiae cet.* the four Stoic divisions of the passions are meant: *λύπη, ἡδονή, ἐπιθυμία, φόβος* cp. Cic. *Tusc.* IV. 5. (Preller, *Hist. Phil.* §. 425.).

non eadem. *i. e.* the superstition is the same although manifested in a different form. Strange to say, before Bake, Editors thought that **non** had fallen out before **colunt**, cp. *N. D.* I. XXXVI. 101.

odit? quibus ex rebus cum omne genus hominum sociatum inter se esse intellegatur, illud extremum est, quod recte vivendi ratio meliores efficit. Quae si adprobatis, pergam ad reliqua: sin quid requiritis, id explicemus prius. *Att.* Nos vero nihil, ut pro utroque respondeam.

XII. 33. *M.* Sequitur igitur ad participandum alium alio communicandumque inter omnes ius nos natura esse factos. Atque hoc in omni hac disputatione sic intellegi volo, *ius* quod dicam natura esse, tantam autem esse corruptelam malae consuetudinis, ut ab ea tamquam igniculi exstinguantur a natura dati exorian-

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illud extremum est. As I take it, this means that, as (§ 31.) he has concluded the argument in Chap. X, with the statement *Nec est—qui ducem n. n. ad virtutem* (or **perfectam naturam** see §. 25.) *pervenire non possit* (the perfectibility of human nature)—so he concludes the argument from the *similitudo in pravitatibus*, with the similar statement, *quod recte —efficit* (another version of perfectibility). Feldhügel explains it as the last point, in the enumeration of the several features, in which the similarity may be discerned.

meliores. *sc.* **homines**, which must be elicited from *genus hum.*, Halm would read **homines meliores.**

respondeam. Bake cp. Plato, *Legg.* x. 896. E. ἐγὼ ὑπὲρ σφῷν ἀποκρινοῦμαι.

§. 33. **alium alio.** Bake and Feldh. think that *ab* must be supplied. Madvig explains "*ad alium alio bono impertiendum*;" but Bake doubts if *participare*, in Cicero, ever = *participem facere.* I cannot help thinking that *alio* depends upon *alium*, (*i. e.* 'one with another') much as in Greek ἄλλος ἄλλῳ, the intimate connexion and reciprocity existing between the two, being expressed by juxta-position and apparent grammatical dependence.

ius nos. MSS. have **iustos**; whence Davies conj. **ius nos**; and Görenz **ius homines.**

ius quod dicam. *ius* and *natura* are due to Pearce and Lambinus. MSS. omit *ius* and give *naturam.* Manutius considers **quod—esse** an interpolation; **natura** *i. e.* φύσει as opp. to **opinione** θέσει cp. §. 28. *n.*

igniculi. Cicero, *Finn.* v. 7. 18. calls them *semina virtutum.* cp. §§. 24. 25. The origin of the metaphor is the Stoic conception of God or Nature as πῦρ τεχνικὸν ὁδῷ βαδίζον εἰς γένεσιν. cp. *N. D.* II. 22. (Preller, *Hist. Phil.* §. 404.).

turque et confirmentur vitia contraria. Quod si, quo modo est natura, sic iudicio homines humani, ut ait poeta, nihil a se alienum putarent, coleretur ius aeque ab omnibus. Quibus enim ratio a natura data est, isdem etiam recta ratio data est, ergo et lex, quae est recta ratio in iubendo et vetando: si lex, ius quoque. Et omnibus ratio; ius igitur datum est omnibus: recteque Socrates exsecrari eum solebat, qui primus utilitatem a iure seiunxisset; id enim querebatur caput esse exitiorum omnium. Unde est illa Pythagorea vox: * * * 34. Ex quo perspicitur, quom hanc benevolentiam tam late longeque diffusam vir sapiens in aliquem pari virtute praeditum contulerit, tum illud effici, quod quibusdam incredibile videatur, sit autem necessarium, ut nihilo se ipse plus quam alterum diligat. Quid enim est quod differat, cum sint cuncta paria? Quod si interesse quippiam tantulum modo potuerit in amicitia, amicitiae nomen iam occiderit, cuius est ea vis, ut, simul atque sibi aliquid alter maluerit, nulla sit.

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poeta. Terence, *Heaut. T.* I. i. 25. The argument for a community of Justice is the same as in §. 23.

recteque Socrates. Bake thinks that this passage is an interpolation. Davies quotes from the *pseudo* Clemens Alexand. *Strom.* II. p. 499.; where this statement about Socrates is repeated. cp. Cic. *Off.* III. 3. II.

For **iure** MSS. have **natura.**

Unde est. Feldh. remarks that the reference is to the identity of **ius** with **utilitas**, not to the *dictum* of Socrates. In the gap, which follows, the words *τὰ τῶν φίλων κοινὰ καὶ φιλίαν ἰσότητα* are supplied by some Editors.

§. 34. **hanc benevolentiam.** *i. e. eam, quam esse necesse est, si Pythagoream illam vocem sequimur.* Feldh.

quibusdam. Bake remarks that the Epicureans are contemptuously alluded to as **quidam** in *Lael.* XIII. 45.

paria. Turnebus quotes Diog. L. VII. 124. *λέγουσι δὲ καὶ τὴν φιλίαν ἐν μόνοις τοῖς σπουδαίοις διὰ τὴν ὁμοιότητα.* cp. Cic. *Off.* I. 17. *in quibus enim eadem studia sunt, eaedem voluntates, in iis fit ut aeque quisque altero delectetur ac se ipso.*

iam. "at once, forthwith."

aliquid alter. A. B. have **alteri.** *vulg.* **quam alteri.**

Quae praemuniuntur omnia reliquo sermoni disputationique nostrae, quo facilius ius in natura esse positum intellegi possit. De quo quom perpauca dixero, tum ad ius civile veniam, ex quo haec omnis est nata oratio.

XIII. 35. *Q.* Tu vero iam perpauca scilicet; ex his enim, quae dixisti * * Attico, videtur mihi quidem certe ex natura ortum esse ius. *Att.* An mihi aliter videri possit, cum haec iam perfecta sint, primum quasi muneribus deorum nos esse instructos et ornatos, secundo autem loco unam esse hominum inter ipsos vivendi parem *et* communem rationem, deinde omnes inter se naturali quadam indulgentia et benevolentia, tum etiam societate iuris contineri? Quae quom vera esse recte, ut arbitror, concesserimus, qui iam licet nobis a natura leges et iura seiungere? 36. *M.* Recte dicis, et res se sic habet. Verum philosophorum more, non veterum quidem illorum,

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praemuniuntur = *praeparantur* §. 28. "Our object in securing all these positions, is to pave the way for &c."

§. 35. **scilicet.** *Notanda est ironia, quae inest in v.* **scilicet,** *quae efficit, ut iam multa de eo dixisse videatur.* Feldh. As I take it, the irony is doubtful: "Indeed, you have already said these "few things," you must know." His hearers need no further proofs.

dixisti. Görenz reads *quae dixisti Attico videtur, mihi cet.* others *quae dixisti, Attico videtur.* Ursinus *nisi quid Attico videtur.* Feldh. *adhuc* for *Attico.* Davies *Attico, credo, videtur.* Quintus, himself a Stoic §. 21, would not be likely to speak unreservedly for Atticus. Halm thinks some such words as *nisi aliter* have been lost.

An mihi. Atticus complaisantly recapitulates the argument, cp. §. 21.

et benevolentia. Halm brackets these words, because in A. they are written in the margin "*a m. recentiore.*" Vahlen on the contrary says "*manu antiqua.*"

§§. 36—39. Although his auditors express themselves satisfied, Marcus prefers, after the fashion of the Stoics, to discuss the question, whether *ius* is φύσει or θέσει, more in detail. He states to whom his arguments are addressed.

§. 36. **veterum.** Bake remarks that, in Cicero, the term *veteres ph.* is relative; sometimes meaning Plato and Aristotle, as in this place, and sometimes their predecessors. cp. *Acad.* II. 5. 14. *Tusc.* I. 10. 20.

sed eorum, qui quasi officinas instruxerunt sapientiae, quae fuse olim disputabantur ac libere, ea nunc articulatim disiecta dicuntur. Nec enim satis fieri censent huic loco, qui nunc est in manibus, nisi separatim hoc ipsum, natura esse ius, disputarint. *Att.* Et scilicet tua libertas disserendi amissa est, aut tu is es, qui in disputando non tuum iudicium sequare, sed auctoritati aliorum pareas. 37. *M.* Non semper, Tite, sed iter huius sermonis quod sit vides: ad res publicas firmandas et ad stabiliendos iure sanandosque populos omnis nostra pergit oratio. Quocirca vereor committere, ut non bene provisa et diligenter explorata principia ponantur, nec tamen ut omnibus probentur—nam id fieri non potest—, sed ut eis, qui omnia recta atque honesta per se expetenda duxerunt et aut nihil omnino in bonis numerandum, nisi quod per se ipsum

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articulatim. Bake prefers the *vulgate* **articulatim distincteque,** on the ground that two adverbs are required to balance *fuse...ac libere.* MSS. have **A. detecta B. distincta.** Madvig proposed *dissecta;* Halm *disiecta.* The dialectical penchant of the Stoics showed itself particularly in their minute logical divisions of a subject; cp. §. 62. With **officinas sap.** we may compare the contemptuous φροντιστήριον of Aristophanes (*Nub.* 94.).

Et scilicet. Halm prefers **Aut sc.**; but, as Feldh. says, the irony in *scilicet* is more striking, if Atticus mockingly assents to what has been said. cp. III. §. 24. **et...quidem.**

§. **37. iter cet.** Bake quotes Plato, *Legg.* III. 688. E. *τὴν ὁδὸν τοῦ λόγου.*

stab. iure sanandosque. Feldh. after Madvig. MSS. have **vires** for **iure** and omit **que.** Halm thinks the passage defective, but suggests **stabiliendas leges et ad iure sociandos**; Vahlen **stabiliendas urbes**; Klotz **s. civitates**; Davies **s. leges**; cp. §. 62.

ut probentur. Acc. to Feldh. we must understand **volo** from **vereor**; in the same way as an affirmative verb is sometimes understood from a negative preceding, cp. *de Fin.* II. 21. 68; Bake however would supply the ellipse as follows: "*nec tamen ita bene provisa ut.*"

qui omnia. *i. e.* Academics, Peripatetics and Stoics; "*nihil omnino*" Stoics; "*nullum magnum*" Academics and Peripatetics (cp. §. 55.). For **duxerunt** some read **dixerunt.**

laudabile esset, aut certe nullum habendum magnum bonum, nisi quod vere laudari sua sponte posset:— 38. iis omnibus, sive in Academia vetere cum Speusippo, Xenocrate, Polemone manserunt, sive Aristotelem et Theophrastum, cum illis congruentes re, genere docendi paulum differentes, secuti sunt, sive, ut Zenoni visum est, rebus non commutatis inmutaverunt vocabula, sive etiam Aristonis difficilem atque arduam, sed iam tamen fractam et convictam sectam secuti sunt, ut virtutibus exceptis atque vitiis cetera in summa aequalitate ponerent, iis omnibus haec, quae dixi, probentur. 39. Sibi autem indulgentis et corpori deservientis atque omnia, quae sequantur in vita quaeque fugiant, voluptatibus et doloribus ponderantis, etiam si vera dicunt—nihil enim opus est hoc loco litibus—, in hortulis suis iubeamus dicere, atque etiam ab omni

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§. 38. **Speusippo.** Plato's nephew and successor in the Academy; Xenocrates of Chalcedon succeeded Speusippus; Polemo of Athens was a pupil of Xenocrates (Preller, *Hist. Phil.* §§. 289—302.).

congruentes re. Cicero like his master Antiochus, repeatedly asserts that there is no fundamental difference in the Ethical doctrines of the three great schools; cp. §. 53.; *Acad. Post.* IV. 17.; XII. 43. (Preller, *Hist. Phil.* §. 449.).

inmutaverunt. *e. g.* "(Zeno) *nihil bonum praeter virtutem nihil malum praeter vitium censebat: reliqua quae etiam bona Peripatetici dicunt et Academici, commoda vocabat: quae mala incommoda.*" Turnebus: cp. Cic. *Fin.* V. 25. 74.

Aristonis. Ἀρίστων...Χῖος, ὁ τὴν ἀδιαφορίαν εἰσηγησάμενος. (Diog. L. VII. 37.) According to him, everything, except virtue and vice, was absolutely indifferent; whereas Zeno qualified his dogma of the "*solum bonum &c.*" by the admission of προηγμένα "preferable alternatives." (Preller, *Hist. Phil.* §. 392.). cp. §. 55.

fractam. cp. *Fin.* II. XIII. 43. "*Quae quum Aristoni et Pyrrhoni omnino visa sunt pro nihilo, ut inter optime valere et gravissime aegrotare nihil prorsus dicerent interesse, recte* **iam pridem** *contra eos desitum est disputari.*"

probentur. MSS. have **probantur**, but according to Turnebus the sentence properly depends upon the preceding *ut eis cet.*

§. 39. **hortulis.** cp. *N. D.* I. 43, 120. "*Democritus...cuius fontibus Epicurus* **hortulos** *suos irrigavit.*" For **dicere**, *desidere* has been suggested.

societate rei publicae, cuius partem nec norunt ullam neque umquam nosse voluerunt, paulisper facessant rogemus. Perturbatricem autem harum omnium rerum Academiam, hanc ab Arcesila et Carneade recentem, exoremus ut sileat; nam si invaserit in haec, quae satis scite nobis instructa et conposita videntur, nimias edet ruinas. Quam quidem ego placare cupio, submovere non audeo.

XIV. 40. * * * nam et in iis sine illius suffimentis expiati sumus: at vero scelerum in homines atque impietatum nulla expiatio est. Itaque poenas luunt non tam iudiciis—quae quondam nusquam erant, hodie multifariam nulla sunt, ubi sunt tamen, persaepe falsa

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facessant. "retire," cp. *Pro Flacc.* XXXVIII. 97. This meaning is more common in the compounds of *facio*, *e.g.* *proficio*, *proficiscor*, cp. our 'make forward' and 'make off.' The Epicurean sage avoided public life (ὁ σοφὸς οὐ πολιτεύσεται). (Preller, *Hist. Phil.* §. 390.).

Academiam. As the special characteristic of the New Academy was its scepticism (*sapiens nulli rei assentietur*) it was, of course, impossible to expect its assent to anything so dogmatic. cp. *de. Orat.* III. 18. 67.

nimias. "too much confusion (for our purpose)." Halm adopts Davies' conjecture **miseras.** The metaphor is from the tumbling down of a building.

§§. 40—41. How much has been lost in the *hiatus* it is impossible to determine: in what remains, it is argued φύσει εἶναι τὸ δίκαιον, from the judgment of Conscience—from the fact that men instinctively recognise an ultimate appeal to Nature—from the very idea of a just man's conduct.

illius. Halm adopts Davies' conjecture *ullis*. With Moser, I think that the argument was directed against the Epicureans, and that the doctrines of Epicurus are contemptuously called *suffimenta*. It was their constant boast that he had freed men from the bondage of superstitious fears: cp. Lucret. V. 18. *sqq.* with Cic. *Tusc.* I. 21. 48. But from false terrors we are freed without his aid; whereas in the case of real crimes &c, his doctrines will not still the conscience.

in homines. Bake conj. **in animis**, cp. II. §. 24. It is probably a *gloss* intended to distinguish **scelerum** from **impietatum.**

luunt. understand *scelerati* from *scelerum.*

ubi sunt. MSS. have *ubi sint*, whence *ut sint* (*i. e.* "supposing that &c," Madv. *L. G.* §. 440.) has been conjectured; but, as Bake says, *ubi sunt* answers to *nusquam* and *multifariam* (*i. e.* **multis locis**); for **tamen** Halm conj. **autem.**

sunt—,sed eos agitant insectanturque furiae, non ardentibus taedis, sicut in fabulis, sed angore conscientiae fraudisque cruciatu. Quod si homines ab iniuria poena, non natura arcere deberet, quaenam sollicitudo vexaret impios sublato suppliciorum metu? quorum tamen nemo tam audax umquam fuit, quin aut abnueret a se commissum esse facinus aut iusti sui doloris causam aliquam fingeret defensionemque facinoris a naturae iure aliquo quaereret. Quae si appellare audent impii, quo tandem studio colentur a bonis? Quod si poena, si metus supplicii, non ipsa turpitudo deterret ab iniuriosa facinerosaque vita, nemo est iniustus atque incauti potius habendi sunt improbi. **41.** Tum autem qui non ipso honesto movemur ut boni viri simus, sed utilitate aliqua atque fructu, callidi sumus, non boni. Nam quid faciet is homo in tenebris, qui nihil timet nisi testem et iudicem? quid in deserto quo loco nactus, quem multo auro spoliare possit, inbecillum atque solum? Noster quidem hic natura iustus vir ac bonus etiam conloquetur, iuvabit, in viam deducet: is vero, qui nihil alterius causa faciet et metietur suis

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sed eos agitant. Some editors read *sed* **ut eos agitent** *cet. i. e.* (ita luunt) *ut.* Wyttenbach compares Æschines, *c: Timarch.* p. 180. Μηδὲ τοὺς ἠσεβηκότας, καθάπερ ἐν ταῖς τραγῳδίαις. Ποινὰς ἐλαύνειν καὶ κολάζειν δᾳσὶν ἡμμέναις ἀλλὰ—ταῦτά ἐστιν ἑκάστῳ Ποινή. *cp. pro Rosc. Am.* xx. 67.

quaenam. Moser says = "*num ulla.*" The Greek γάρ (*indignantis*) gives the same force, cp. τίς γάρ......;

iusti. "invent some plea of a legitimate grievance of his own." Feldh. thinks that *iusti* = "*non simulati, perfecti,*" and *doloris* = "*poenitentiae.*"

si poena. Halm brackets as a gloss of *supplicii;* for **atque** MSS. have **aut** which Vahlen defends: "(*hoc enim dicit*) '*neminem esse iniustum aut, quod verius est, iniustos sive improbos esse non sic sed incautos potius appellandos.*"

§. 41. ipso. "alone," "by itself," "apart from all other considerations"; the radical meaning both of *ipse* and αὐτός. For the sentiment cp. Horace, *Epp.* I. 16. 50.

commodis omnia, videtis, credo, quid sit acturus. Quod si negabit se illi vitam erepturum et aurum ablaturum, numquam ob eam causam negabit, quod id natura turpe iudicet, sed quod metuat ne emanet, id est, ne malum habeat. O rem dignam, in qua non modo docti, *sed* etiam agrestes erubescant?

XV. 42. Iam vero illud stultissimum, existimare omnia iusta esse, quae sita sint in populorum institutis aut legibus. Etiamne, si quae leges sint tyrannorum? Si triginta illi Athenis leges imponere voluissent aut si omnes Athenienses delectarentur tyrannicis legibus, num idcirco eae leges iustae haberentur? Nihilo, credo, magis illa, quam interrex noster tulit, ut dictator quem vellet civium [aut indicta causa] inpune posset occidere. Est enim unum ius, quo devincta est hominum societas et quod lex constituit una; quae lex est recta ratio imperandi atque prohibendi: quam qui ignorat, is est iniustus, sive est illa scripta uspiam sive nusquam.

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emanet. "leak out."

§§. **42—48.** The opinion that Justice consists in obedience to the laws of nations, a fallacy.—Justice and the Virtues rest upon the same foundation.

§. **42.** **sita.** Vahlen cp. *de Orat.* I. xv. 65 .Halm adopts Ernesti's emendation **sancita** and Stephens' **sunt** for **sint.**

triginta illi. "The famous Thirty."

For **aut si.** Zumpt conj. **et si,** *i. e.* "even if." As Bake observes *ponere leges* (τιθέναι νόμους) is said of the legislator, *iubere leges* (τίθεσθαι νόμους) of the people, who adopt them. (Lidd. and Scott are curiously mistaken. *Vid. s. v.* τίθημι.).

interrex. L. Valerius Flaccus (*U. C.* 672.). cp. Cic. III. *in Rull.* II. 5. "*omnium legum iniquissimam dissimillimamque legis esse arbitror eam quam L. Flaccus interrex de Sulla tulit ut omnia quaecunque ille fecisset essent rata*" (Mommsen, *H. R.* bk. IV. c. x.).

aut indicta c. Acc. to Halm and Feldhügel this is a gloss on **inpune,** but Vahlen thinks that some word has fallen out before **aut,** *e. g. indemnatum.* Other Editors either omit **aut** or change it into *vel.*

quo devincta. MSS. have *quod d.* whence Halm conj. *quoi d.* cp. §. 18.

ignorat. "ignores." Bake remarks that in §. 11. *noscat* is used in the opposite sense.

Quod si iustitia est obtemperatio scriptis legibus institutisque populorum et si, ut eidem dicunt, utilitate omnia metienda sunt, negleget leges easque perrumpet, si poterit, is, qui sibi eam rem fructuosam putabit fore. Ita fit ut nulla sit omnino iustitia, si neque natura est, eaque, quae propter utilitatem constituitur, utilitate illa convellitur. 43. Atque, si natura confirmatura ius non erit, *virtutes omnes* tollentur. Ubi enim liberalitas, ubi patriae caritas, ubi pietas, ubi aut bene merendi de altero aut referendae gratiae voluntas poterit exsistere? nam haec nascuntur ex eo, quia natura propensi sumus ad diligendos homines, quod fundamentum iuris est. Neque solum in homines obsequia, sed etiam in deos caerimoniae religionesque tolluntur, quas non metu, sed ea coniunctione, quae est homini cum deo, conservandas puto.

XVI. Quod si populorum iussis, si principum decretis, si sententiis iudicum iura constituerentur, ius esset latrocinari, ius adulterare, ius testamenta falsa supponere, si haec suffragiis aut scitis multitu-

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obtemperatio. Bake cp. Plato, *Rep.* VI. 493. D. *πόλει διακονία* (Madv. *L. G.* §. 244. 5.). The Epicureans are meant.

perrumpet. Görenz compares the saying of Anacharsis (Stob. XLV. 25.) "Laws, like spiders' webs, only catch the little flies: the big ones break through."

utilitate illa. The repetition of the pronoun (nominative case) is a little awkward. Davies conj. **ulla**; Stephens **alia** *i. e.* "by another, *conflicting* interest." (Madvig, *L. G.* §. 489.).

§. 43. **confirmatura.** Bake prefers **confirmatum.** The words *virtutes omnes* are wanting in the best MSS.

caerimoniae *cet.* Ernesti places the comma after *deos*, making *caerimoniae &c.* explanatory of *obseq. in deos;* for **coniunctione** cp. §. 23.

principum. *i. e.* "the Senate" cp. *de Orat.* I. 7. *causam principum.* "*Populus* **iubere** *dicebatur, Senatus,* **decernere,** *Judices* **sententiam ferre.**" Turn.

falsa. Görenz would omit the adjective, because *supponere* itself conveys this notion; **haec** of course refers to *latrocinium &c.* cp. Liv. V. c. XXVIII.

dinis probarentur. 44. Quae si tanta potestas est stultorum sententiis atque iussis, ut eorum suffragiis rerum natura vertatur, cur non sanciunt ut, quae mala perniciosaque sunt, habeantur pro bonis et salutaribus? aut cur ius ex iniuria lex facere possit, bonum eadem facere non possit ex malo? Atqui nos legem bonam a mala nulla alia nisi naturae norma dividere possumus; nec solum ius et iniuria natura diiudicatur, sed omnino omnia honesta et turpia. Nam † et communis intellegentia nobis notas res efficit, easque in animis nostris inchoavit, ut honesta in virtute ponantur, in vitiis turpia. 45. Ea autem in opinione existimare, non in natura posita dementis est. Nam nec arboris nec equi virtus quae dicitur, in quo abutimur nomine, in opinione sita est, sed in natura. Quod si ita est, honesta quoque et turpia natura diiudicanda sunt. Nam si opinione universa virtus, eadem eius etiam partes pro-

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§§. 44—47. The votes of the multitude have no more power over Right and Wrong, than over Good and Evil. Nature, the criterion not only of Right and Wrong but also of all things, honourable and base. Differences of opinion accounted for—a false analogy from the senses.

stultorum. = "non-philosophers," in Stoic parlance, cp. Horace, Sat. II. III. 32.

ut eorum. Vahlen defends the MSS. **ut quorum**; *i. e.* "in as much as they can change &c....Why do they not &c.?" Bake cites Plato, *Rep.* VI. 493., where this sophism is ridiculed.

aut cur. MSS. have **aut quom.** *Vulg.* **aut cur, cum.**

Atqui nos. Feldh. remarks that the pronoun is expressed in order to distinguish Cicero and his party from the Epicureans.

Nam et communis. Halm thinks this passage corrupt; it is possibly one of those places (alluded to in the Introduction,) where we have the rough draught containing alternative sentences, one or other of which would have been rejected on revision.

easque—inchoavit. It has been objected that it is the *intellegentiae* which are said to be *inchoatae* by nature §. 26.; but Feldh. explains that *intellegentia* is here used generally (cp. §. 27.) as opp. to particular *intellegentiae.* MSS. have a variant **ea quae** and omit **ut** after **inchoavit**, which has been corrected; hence I have been led to conjecture **ea quae—inchoata est, ut honesta**, referring **ea** to **intellegentia.**

§. 45. **ea.** *i. e.* virtue and vice.

equi virtus. Plato affects this *catachresis*, e. g. *Apolog.* IV. 20. *Rep.* I. 335. B.

barentur. Quis igitur prudentem et, ut ita dicam, catum non ex ipsius habitu, sed ex aliqua re externa iudicet? Est enim virtus perfecta ratio, quod certe in natura est: igitur omnis honestas eodem modo.

XVII. Nam ut vera et falsa, ut consequentia et contraria sua sponte, non aliena iudicantur, sic constans et perpetua ratio vitae, quae virtus est, itemque inconstantia, quod est vitium, sua natura *iudicabitur. An arboris aut equi ingenium natura* probabimus, ingenia iuvenum non item? 46. An ingenia natura, virtutes et vitia, quae existunt ab ingeniis, aliter iudicabuntur? An ea non aliter, honesta et turpia non ad naturam referri necesse erit? Quod laudabile est, bonum in se habeat quod laudetur

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ex ipsius habitu. "from the condition of the man himself," *i. e.*, as Wyttenbach explains, because he possesses prudence, not (*ex al. re ext.*) because he is esteemed prudent by other men: **habitus** = Gk. ἕξις.

Est enim virtus. 'For the virtue (of the **prudens** *i. e.* **prudentia**) is *perfecta ratio* (by definition §. 19. *init.*) and this, at any rate, *in natura est;* therefore, all virtue (*honestas* = τὸ καλὸν = virtue) &c.'

quod certe. Ernesti conj. *quae;* but the neuter is equally correct (Madvig, *L. G.* 315. B.).

constans et p. The Stoic τέλος was καθ' ἕνα λόγον καὶ σύμφωνον ζῆν. In this definition of virtue, the syllogistic features of the Stoic Ethics come into view (Preller, *Hist. Phil.* §. 419.). Bake remarks that **aliena** is put for the pronoun (*alterius*).

sua natura cet. The words in *italics* are not found in MSS. but are supplied by Madvig, in order to preserve the sequence of the argument, and approved with very slight reservation by the latest Editors. MSS. A. B. have **sua natura probavit nos ingenia iuvenum non item ad ingenia.** As might be expected in "*loco uno omnium corruptissimo,*" as Bake calls it, very many emendations have been proposed; *e. g.* **natura probabitur. Nos ingenia iuvenum non item? at ingenia natura, virtutes et vitia......aliter iudicabuntur?** Görenz—**n. probatur. Nos ingenia iuvenum natura; virtutes......aliter iudicabuntur?** Schütz.

§. 46. An ingenia natura. The argument *ad absurdum* is still pursued. If "*ingenia natura iud,*" can *virtutes* &c. fail to be? Again if (**ea non aliter**) *virtutes* &c. are not judged by another standard, must we not refer *honesta et turpia*, which coincide with them, to nature?

An ea non aliter. In MSS. *quam* is inserted after *aliter*, which has led some Editors to omit *non* before *aliter*.

Quod laudabile est. Halm after Klotz. Others read *Q. l. bonum est &c.* Wyttenbach remarks concerning "**laudabile bonum;**" "*Bonum*

necesse est; ipsum enim bonum non est opinionibus, sed natura. Nam, ni ita esset, beati quoque opinione essent: quo quid dici potest stultius? Quare cum et bonum et malum natura iudicetur et ea sint principia naturae, certe honesta quoque et turpia simili ratione diiudicanda et ad naturam referenda sunt. 47. Sed perturbat nos opinionum varietas hominumque dissensio, et quia non idem contingit in sensibus, hos natura certos putamus, illa, quae aliis sic, aliis secus nec isdem semper uno modo videntur, ficta esse dicimus. Quod est longe aliter. Nam sensus nostros non parens, non nutrix, non magister, non poeta, non scaena depravat, non multitudinis consensus abducit a vero: *At vero* animis omnes tenduntur insidiae vel ab iis, quos modo enumeravi, qui teneros et rudes quom acceperunt, inficiunt et flectunt, ut volunt, vel ab ea, quae penitus in omni sensu inplicata insidet, imitatrix boni, voluptas, malorum autem mater

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triplex est ex definitione Peripateticorum, **animi, corporis, rerum externarum,** *in his solum animi bonum* **laudabile bonum** *est.*" cp. Aristot. *N. E.* I. v. According to the Stoics "*Quod est bonum omne laudabile est: quod autem laudabile est omne est honestum. Bonum igitur quod est honestum est.*" The sense is: *Honestas* (or *laudabile* = *bonum*) *non est opinionibus sed natura,* because *ipsum bonum non est op.* &c.

beati. "*cum beatitudo a virtute proficiscatur*" Turneb.

principia naturae. "i. e. *principia, quibus utrum quid malum, an bonum sit, iudicatur, in natura sunt posita.*" cp. **ius naturae** §. 40. "i. e. *ius in natura positum.*" Feldh. There is no allusion to the *good* and *evil* principles of Pythagoras.

§. 47. **sensibus.** *i. e.* there is no difference of opinion about *e. g.* 'sweet' and 'bitter.' Ernesti. cp. §. 30.

illa. ideas of justice, happiness &c. cp. Aristot. N. E. I. 2. (4). For **dicimus** some read **ducimus**; these verbs are constantly interchanged in MSS.; Bake says "*exigua est in talibus librorum auctoritas.*"

nutrix. Bake cp. Cic. *Tusc.* III. I. Plato, *Rep.* VI. 492. B. *Protag.* 325. C.

At vero. MSS. vary between **at, ad** and **a vero**; hence Vahlen adds *At vero,* which seems to be required for the sense.

inficiunt. "colour and mould them as they will." Turnebus remarks "*Teneri* **flectuntur,** *rudes* **inficiuntur,** *Rudis enim lana tincta nondum est.*" cp. *Ovid. Met.* VI. 19.

omnium: quoius blanditiis corrupti, quae natura bona sunt, quia dulcedine hac et scabie carent, non cernunt satis.

XVIII. 48. Sequitur, ut conclusa mihi iam haec sit omnis oratio, id quod ante oculos ex iis est, quae dicta sunt, et ius et omne honestum sua sponte esse expetendum. Etenim omnes viri boni ipsam aequitatem et ius ipsum amant, nec est viri boni errare et diligere quod per se non sit diligendum: per se igitur ius est expetendum et colendum. Quod si ius, etiam iustitia; sin ea, reliquae quoque virtutes per se colendae sunt. Quid? liberalitas gratuitane est an mercennaria? Si sine praemio benignus est, gratuita; si cum mercede, conducta: nec est dubium quin is, qui liberalis benignusve dicitur, officium, non fructum sequatur. Ergo item iustitia nihil expetit praemii, nihil pretii:

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cernunt. "*sc.* **animi**" Davies. MSS. have *cernuntur*. Görenz thinks that **scabie** refers to the Epicurean theory of pleasure γαργαλισμός. cp. §. 31. Plato. *Phileb.* 46. *sqq.*

§§. **48—52.** A further proof that *ius et omne honestum* is to be pursued for its own sake, is to be found in the fact that all good men do so. The truth of this statement is shown in the case of several of the virtues. Finally, if virtue were sought for the sake of anything else, there would be something better than virtue—but this line of argument would lead insensibly to a discussion *de finibus*.

§. **48. Sequitur.** "It follows, (that I may now bring all this discussion to a close) that both "*ius cet*;"—a fact which is manifest from that which &c."

Etenim. Feldhügel remarks "*Licet* **concluserit** *disputationem, novo tamen argumento idem confirmare aggreditur.*"

ipsam. "apart from other things" *i. e.* "for its own sake." cp. §. 41. *n.*

errare et diligere. Bake remarks that these verbs correspond with ἁμαρτάνειν and προσίεσθαι of the Stoics; the Stoic sage is ἀναμάρτητος.

sin ea. Vahlen, after Davies. MSS. have **sit in ea.** Halm conj. **si justitia.** Bake **si haec ita.** Vahlen compares Cic. *N. D.* III. 20, 52. and *de Div.* II. 7. 18.

benignus est. "*scil. is qui benignus est.*" Vahlen. Feldh. prefers the *v. l.* "**benigna.**" This passage is alluded to by Lactantius (*Inst. Div.* VI. 11.).

per se igitur expetitur. Eademque omnium virtutum causa atque sententia est. 49. Atque etiam si emolumentis, non suapte *vi* virtus expetitur, una erit virtus, quae malitia rectissime dicetur. Ut enim quisque maxume ad suum commodum refert quaecumque agit, ita minime est vir bonus, ut, qui virtutem praemio metiuntur, nullam virtutem nisi malitiam putent. Ubi enim beneficus, si nemo alterius causa benigne facit? ubi gratus, si non eum ipsum cernunt grati, cui referunt gratiam? ubi illa sancta amicitia, si non ipse amicus per se amatur toto pectore, ut dicitur? qui etiam deserendus et abiciendus est desperatis emolumentis et fructibus: quo quid potest dici immanius? Quod si amicitia per se colenda est, societas quoque hominum et aequalitas et iustitia per se *est* expetenda. Quod ni ita est, omnino iustitia nulla est; id enim iniustissimum ipsum est, iustitiae mercedem quaerere.

XIX. 50. Quid vero de modestia, quid de tem-

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eademque. "And the same is the case with all the virtues." **atque sententia** is added *per epexegesin* to **causa.** Wyttenbach explains "*omnium virtutum eadem est natura, eadem vox.*"

§. 49. **suapte vi.** MSS. omit **vi**; Halm prefers the emendation of Stephens **sua sponte,** which gives the same sense.

malitia. *cp.* §. 41. **callidi cet.** where Bake quotes Plato, *Menex.* 246. E. *πᾶσά τε ἐπιστήμη χωριζομένη δικαιοσύνης καὶ τῆς ἄλλης ἀρετῆς, πανουργία, οὐ σοφία φαίνεται.* For the meaning of **malitia** (knavery) cp. *Tuscul.* IV. 15. 34.; where Cicero prefers *vitiositas* as an equivalent of *κακία.*

nullam virtutem. by attraction, for *nihil virtutem.*

eum ipsum. "have his interest alone in view." MSS. (A.B.) have **ipsi**, which Feldhügel defends; **ipsi** he says, "*h. l. est* **ultro, sua sponte** *i. e.* **non impulsi vi aliena.**" But the reading of the inferior MSS. has been generally preferred.

toto pectore. Davies quotes Servius (*in Virg. Æn.* IX. 276.) who remarks that "**ut dicitur** (*τὸ λεγόμενον*)" indicates that this phrase had passed into a proverb. cp. §. 8. *n.*

est exp. Halm after Lambinus, MSS. omit **est.**

§. 50. **modestia.** "propriety" (*σωφροσύνη*).—**Verecundia** (sense of propriety); **pudor** and **pudicitia** are, I think, intended to balance the foregoing synonyms; *pudor* and *temperantia* having the more general meaning, while *pudicitia* and *continentia* are used in a special sense.

perantia, quid de continentia, quid de verecundia, pudore pudicitiaque dicemus? infamiaene metu non esse petulantis an legum et iudiciorum? Innocentes ergo et verecundi sunt, ut bene audiant, et ut rumorem bonum colligant, erubescunt. Pudet iam loqui de pudicitia. Ac me istorum philosophorum pudet, qui ullum iudicium multare nisi uitio ipso notatum putant. 51. Quid enim? possumus eos, qui a stupro arcentur infamiae metu, pudicos dicere, cum ipsa infamia propter rei turpitudinem consequatur? Nam quid aut laudari rite aut vituperari potest, si ab eo recesseris, quod aut laudandum aut vituperandum putes? An corporis pravitates, si erunt perinsignes, habebunt aliquid offensionis, animi deformitas non habebit? cuius turpitudo ex ipsis vitiis facillime percipi potest. Quid enim foedius avaritia, quid inmanius libidine, quid contemptius timiditate, quid abiectius tarditate

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Pudet iam. Madvig thinks that it is Cicero, who declines to speak *de pudicitia*. Feldh. defends the reading **pudet etiam**, referring these words to the **verecundi**. Whether, with him, we continue the question throughout (*e. g.*—**erubescunt?**—**pudicitia?**) or consider it an ironical statement, makes little difference.

Ac me. Orelli with inferior MSS. reads **ac me nimis**. For **nimis** = 'exceedingly' cp. §. 27. With **istorum p.** "your philosophers," (to Atticus) cp. §. 21.

qui ullum—putant. "who think that any judgment punishes, unless the fault itself supplies the brand." Vahlen, who by the way adds **neminem** before **ullum**, seems to have emended this passage with least change. MSS. have *qui ullum* (*illum* B. *nullum* H.) *iuditium uitare nisi vitio ipso mutatum* (*nutatum* B. *notatum* H.). Klotz conj. *qui ullum iudicium vitari nisi vitio ipso vitato p.* Before seeing Klotz's text, I had elicited the same reading, *vitium* being substituted for *iudicium*, from the various readings of Bake's MSS. Transl. "who think that a fault is avoided at all, except the fault itself be avoided."

§. 51. **recesseris.** Halm. MSS. have **si ab eo natura r.**, whence other Editors read **si ab eius natura r.** The sense is not materially altered: "if one loses sight of *that*" or "of the *nature* of that."

percipi. *v. l.* **perspici.** With this passage Turnebus cp. Cic. *Off.* III. 29. 105. Horace, *Epist.* I. II. 38.

inmanius. Davies conj. **infamius**, but Bake quotes *pro Scauro* §. 13. **immanes** *libidines*.

et stultitia dici potest? Quid ergo? eos, qui singulis vitiis excellunt aut etiam pluribus, propter damna aut detrimenta aut cruciatus aliquos miseros esse dicimus an propter vim turpitudinemque vitiorum? quod item ad contrariam laudem in virtutem dici potest. **52.** Postremo, si propter alias res virtus expetitur, melius esse aliquid quam virtutem necesse est. Pecuniamne igitur an honores an formam an valetudinem? quae et, cum adsunt, per *se* parva sunt, et, quam diu adfutura sint, certe sciri nullo modo potest: an, id quod turpissimum dictu est, voluptatem? At in ea quidem spernenda et repudianda virtus vel maxime cernitur.

Sed videtisne quanta series rerum sententiarumque sit atque ut ex alio alia nectantur? Quin labebar longius, nisi me retinuissem. XX. *Q.* Quo tandem? libenter enim, frater, cum ista oratione tecum prolaberer. *M.* Ad finem bonorum, quo referuntur et quoius apiscendi causa sunt facienda omnia, controversam rem et plenam dissensionis inter doctissimos,

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ad contrariam. "which also can be said, to its praise on the contrary, with respect to virtue." Bake reads **in virtute** "*i. e. cum agitur de virtute.*"

§. **52.** **Postremo, si.** Bake reads *Nam si.* For the argument cp. Aristotle, *N. E.* I. 5.

Pecuniamne. Accusative by attraction to the preceding sentence. Madvig (*ad Fin.* II. 27. 88.) quotes *N. D.* I. 29. 82., Livy, V. 35.

per se parva. Halm. MSS. have **perparva.** Vahlen prefers **certum sciri** of MSS. to **certe s.** *cp. ad Fam.* IX. 9. I.

labebar...retinuissem. Perhaps the best explanation of such constructions is that they are elliptical *i. e.* "**labebar** (*et lapsus essem*) **nisi.**" The result is a more graphic and vivid description cp. Horace, Odes, II. 17. 27. Bake compares a similar omission of ἂν in Greek *e. g.* Plato, *Sympos.* 198. C. ᾤχόμην, εἰ πῃ εἶχον.

cum ista. Bake. MSS. have **quod istam** (in an erasure). Halm thinks that something like **attinet** has been omitted. Others read **ad istam,** referring **orationem** to the discussion *de finibus*: du Mesnil's conjecture—**quo ista oratione tendis, tecum**—has great probability.

sed aliquando iam iudicandam. 53. *Att.* Qui istuc fieri potest L. Gellio mortuo? *M.* Quid tandem id ad rem? *Att.* Quoniam Athenis audire ex Phaedro meo memini Gellium, familiarem tuum, cum pro consule ex praetura in Graeciam venisset essetque Athenis, philosophos, qui tum erant, in locum unum convocasse iisque magno opere auctorem fuisse, ut aliquando controversiarum aliquem facerent modum: quod si essent eo animo, ut nollent aetatem in litibus conterere, posse rem convenire, et simul operam suam illis esse pollicitum, si posset inter eos aliquid convenire. *M.* Ioculare istuc quidem, Pomponi, et a multis saepe derisum: sed ego plane vellem me arbitrum inter antiquam

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aliquando iam. Feldh. prefers **aliquando tamen,** which seems more suitable.

§§. 53—56. *Apropos* of the question **de finibus,** it is remarked that the difference between the Academy and the Porch, on this point, is one "*non rerum sed verborum:*" but this topic may be reserved for another time.

§. 53. **L. Gellio.** Probably L. Gellius Poplicola (Cos. 682.). *cp. Brut.* XXVII. 105.

Quoniam. *v. l.* **Quia me.** This Phaedrus was a celebrated Epicurean Philosopher cp. Cic. *Fin.* V. i. 3.

proconsule. Turnebus distinguishes **proconsule** "a person sent into a province **loco consulis** although not **ex consulatu**" from **proconsul** "one who held a province **ex consulatu.**" Bake remarks that Achaia (in which Attica was included) was ordinarily a Praetorian Province; but cites *Phil.* II. 13. 31.; XI. 12. 30. and *Verr.* III. 91. as instances of Praetors in Proconsular Provinces. (See Ramsay, *R. A. s. v. Provinciae.*).

venisset essetque. Vahlen. MSS. have **venissetque.** Halm reads **abisset venissetque**; others simply omit **que**: **iisque** is Halm's correction for **ipsisque**; but "the Masters" would suit the context.

rem convenire. Wyttenbach remarks that this is opposed to **aliquid convenire.** *i. e.* the whole matter might be settled, if they were so minded; and he offers his services in the faint hope that **something** may be agreed upon.

operam suam. *sc.* as arbitrator. As Turnebus says, the joke consisted in his assuming that these disputes could be settled like an ordinary law suit.

si posset. "in the hope that &c." For this use of **si** with the conjunctive, to which Madvig has called attention, *cp.* Livy, V. 42. "*si compelli ad deditionem...possent.*" Verg. Æn. IX. 513.

antiquam A. *cp. Fin.* V. 3. 7., where Cicero states that he includes the Peripatetics under this name. See §. 36. *n.*

Academiam et Zenonem datum. *Att.* Quo tandem istuc modo? *M.* Quia de re una solum dissident, de ceteris mirifice congruunt. *Att.* Ain tandem? unane est solum dissensio? 54. *M.* Quae quidem ad rem pertineat, una: quippe cum antiqui omne, quod secundum naturam esset, quo iuvaremur in vita, bonum esse decreverint, hic *nihil* nisi quod honestum esset putarit bonum. *Att.* Parvam vero controversiam dicis ac non eam, quae dirimat omnia! *M.* Probe quidem sentires, si re ac non verbis dissiderent.

XXI. *Att.* Ergo adsentiris Antiocho familiari meo —magistro enim non audeo dicere—, quocum vixi et qui me ex nostris paene convellit hortulis deduxitque in Academiam perpauculis passibus. *M.* Vir iste fuit ille quidem prudens et acutus et in suo genere perfectus mihique, ut scis, familiaris, quoi tamen ego

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Ain tandem? "You do'nt say so?" **Tandem** is often employed in questions expressing surprise or impatience. *e.g. Catil.* I. 1. **Quousque tandem...?**

unane est. Bake defends this reading, showing that it = **una de re est dissensio**, which some would substitute for it. cp. *Philip.* VIII. 5. 17.

§. 54. **antiqui omne.** Halm after Bake. *cp. de Fin.* III. §. 36. MSS. have **omnes.** Antiqui = *antiqua Academia.* This question is discussed by Cicero, in Bk. IV. of the *de Finibus.*

nihil nisi. MSS. omit **nihil.** · For **Parvam** some read **Perparvam.** Bake notices the irony in **vero**; cp. Plato, *Rep.* I. 339. B. *σμικρά γε ἴσως προσθήκη.* For the sense cp. *Acad.* II. §. 132. "*omnis ratio vitae definitione s. boni continetur; de qua qui dissident, de omni vitae ratione dissident.*"

sentires. Bake defends the *v. l.* **sentis**, see §. 52. *n.*

Antiocho. Antiochus of Ascalon, pupil of Philo. He sought to reconcile the Stoic doctrines with those of the Academy cp. *ad Famil.* XIII. 1. *Acad.* I. §. 13. *Brut.* 91. (Preller, *Hist. Phil.* §. 449.). With **magistro** cp. §. 21.

hortulis. cp. §. 39. **convellit** is in keeping with the metaphor from transplanting.

passibus. "all but a very few steps." An uncommon use of the ablative "*intervalli.*" This ablative is common enough, as Feldh. remarks, in verbs of distance, *e.g.*, *Verg. Æn.* XI. 907. The Grk. genitive ὀλίγου, "within a little," may be compared.

Vir iste. "The philosopher you mention was *I grant you* &c." See §. 6. *n.*

adsentiar in omnibus necne mox videro: hoc dico, controversiam totam istam posse sedari. 55. *Att.* Qui istuc tandem vides? *M.* Quia, si, ut Chius Aristo dixit solum bonum esse quod honestum esset, malumque quod turpe, ceteras res omnis plane paris ac ne minimum quidem utrum adessent an abessent interesse, valde a Xenocrate et Aristotele et ab illa Platonis familia discreparet *et* esset inter eos de re maxima et de omni vivendi ratione dissensio: nunc vero, quom decus, quod antiqui summum bonum esse dixerant, hic solum bonum dicat, itemque dedecus illi summum malum, hic solum, divitias, valetudinem, pulchritudinem commodas res appellet, non bonas, paupertatem, debilitatem, dolorem incommodas, non malas, sentit idem quod Xenocrates, quod Aristoteles, loquitur alio modo. Ex hac autem non rerum, sed verborum discordia controversia est nata de finibus: in qua, quoniam ususcapionem duodecim tabulae intra quinque pedes esse noluerunt, depasci veterem possessionem Academiae ab

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§. 55. **Qui istuc.** MSS. have **Quin istuc.** For *istuc* some read *istud.* On *tandem* see §. 53 *n.*

Quia, si......esse. This *anacoluthon* is occasioned by the intervention of **dixit**, the construction of the conditional clause being accommodated to the parenthesis, by attraction. Feldh. cp. Cic. *Rep.* I. §. 58. "**Si,** *ut Graeci dicunt, omnes aut Graios* **esse** *aut Barbaros.*" *de Off.* I §. 22. Madvig, however, would supply *dixisset* after *dixit.* **Aristo.** cp. §. 38. *n.*

antiqui—hic. [1] The Academy.—[2] Zeno. (See Preller, *Hist. Phil.* §. 420.).

de finibus. A play upon the ambiguity of **finis** (*e. g.* **f. bonorum** and **f. agrorum**).

ususcapionem. "Prescriptive right" was acquired by undisputed and *bona fide* possession of a thing for a time fixed by law. The time fixed by the XII. was one year, in the case of moveables, and **two years,** in the case of immoveables (Phillimore, *Roman Law.*).

intra...noluerunt. MSS. have **inter...voluerunt.** The XII Tables provided that a common space of 5 feet, should he left between adjoining farms, for the purposes of boundary line, right of way &c. This 5 feet could not be acquired like other land &c. by possession, since *usucapio* did not apply to it. Another explanation (reading **voluerunt**) is that, as the XII. allowed *usucapio* **within** the 5 ft. line (*i. e.* in the farm

hoc acuto homine non sinemus, nec Mamilia lege singuli, sed e XII tres arbitri finis regemus. **56.** *Q.* Quamnam igitur sententiam dicimus? *M.* Requiri placere terminos, quos Socrates pegerit, iisque parere. *Q.* Praeclare, frater, iam nunc a te verba usurpantur civilis iuris et legum, quo de genere exspecto disputationem tuam; nam ista quidem magna diiudicatio est, ut ex te ipso saepe cognovi. Sed certe ita res se habet, ut ex natura vivere summum bonum sit, id est, vita modica et apta virtute perfrui, aut naturam sequi et eius quasi lege vivere, id est, nihil,

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which it surrounded) Zeno must not be left in undisturbed possession of the Academy's domain, lest he should acquire a prescriptive right to it (*i. e.* to this dogma, which he has merely enunciated in other terms). Again Wordsworth (*Frag. Early Latin*, p. 525.) thinks "that the XII. did not allow a piece of ground **less than 5 ft. in breadth** to be acquired by *usucapio*, probably to prevent small encroachments which it might be difficult to detect."

Mamilia. C. Mamilius (Tr. Pl. 589.) caused a law to be passed "*de finibus agrorum regundis*," by which disputes concerning boundaries were referred to a single boundary commissioner in each case, instead of to the three commissioners provided by the XII. Hence as some have thought, he obtained the surname **Limetanus.** For **e XII** MSS. have **ex is.**

§. **56.** **pegerit.** This form is said to be appropriate to legal jargon. Feldh. prefers **pepigerit.** For the 'active' **parere** following **requiri** he compares *Brut.* 52, 196; *Fin.* II. vii. 21.

nam ista. *i. e.* the question '*de finibus*;' Vahlen remarks that the words **ista quidem** require the following clause **sed certe—vivere.** (cp. §. 6. *n.*) which Halm and others bracket as spurious.

ex natura vivere. ὁμολογουμένως τῇ φύσει ζῆν. Two explanations of this dogma are here given (1) that of the Academy "**vita modica cet.**" (2) that of the Stoics "**naturam sequi cet.**"

vita modica. cp. *Fin.* II. xi. 34. "*secundum naturam vivere, i. e. virtute adhibita frui primis a natura datis* (τὰ πρῶτα κατὰ φύσιν)." Both Academics and Peripatetics thought that the happy life was not entirely independent of externals. φαίνεται δ' ὅμως καὶ τῶν ἐκτὸς ἀγαθῶν προσδεομένη ἀδύνατον γὰρ ἢ οὐ ῥᾴδιον τὰ καλὰ πράττειν ἀχορήγητον ὄντα. Aristot. *N. E.* I. ix. *cf.* X. ix. (See Preller, *Hist. Phil.* §. 345.).

apta virtute. *i. e.* **apta e virtute,** which Zumpt would read. For the omission of the preposition *cp. Tusc.* V. 14. By **per** *frui* the βίος τέλειος of Aristotle seems to be intended.

naturam sequi. cp. *Fin.* II. *l. c.* "*Stoicis* **consentire naturae** *quod esse volunt e virtute i. e. honeste vivere: quod ita interpretantur, vivere cum intellegentia earum rerum, quae natura evenirent, eligentem ea, quae essent secundum naturam reicientemque contraria.*"

quantum in ipso sit, praetermittere quo minus ea, quae natura postulet, consequatur, quod inter haec velit virtute tamquam lege vivere. Quapropter hoc diiudicari nescio an numquam, sed hoc sermone certe non potest, si quidem id, quod suscepimus, perfecturi sumus.

XXII. 57. *Att.* At ego huc declinabam nec invitus. *Q.* Licebit alias: nunc id agamus, quod coepimus, quom praesertim ad id nihil pertineat haec de summo malo bonoque dissensio. M. Prudentissime, Quinte, dicis; nam quae a me adhuc dicta sunt, * * * *. *Q.* Nec Lycurgi leges neque Solonis neque Charondae neque Zaleuci nec nostras duodecim tabulas nec plebiscita desidero, sed te existimo cum populis tum etiam singulis hodierno sermone leges vivendi et disciplinam daturum. 58. *M.* Est huius vero disputationis, Quinte, proprium id, quod exspectas, atque utinam esset etiam facultatis meae! Sed profecto ita se res habet, ut, quoniam vitiorum emendatricem legem esse oportet commendatricemque virtutum, ab ea vivendi doctrina ducatur. Ita fit ut mater omnium bonarum rerum sapientia *sit, a* quoius amore Graeco verbo philosophia nomen invenit, qua nihil a dis inmortalibus uberius, nihil florentius, nihil praestabilius hominum

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quod inter......vivere. This looks like a gloss; Huschke cj. **quom** for **quod.** Wyttenbach explains **inter haec** "*sc. quae natura postulat.*" du Mesnil reads *q. item hoc valet.* **nescio an**, see §. 18. *n.*

§§. 57—63. By way of apology for the apparent digression (*de finibus*), Marcus sums up with some remarks on the importance of the study of philosophy, and its bearing upon the subject in hand.

dicta sunt. There is a manifest *hiatus* here. Lambinus edited "**dicta sunt,** *e media philosophia ducta sunt: tu autem alicuius civitatis leges fortasse desideras.*" But this is mere conjecture. cp. §. 17.

Charondae. II. §. 14. *n.*

§. 58. Ita fit ut. Feldh. draws attention to the fact that '*sapientia*' ='*recta ratio*' (§. 22.)='*lex.*' In MSS. **sit** is omitted. Cicero (*Tuscul.* V. 3.) ascribes the invention of the title *philosophus* to Pythagoras.

qua nihil. Imitated from Plato, *Timaeus* 47. B. *φιλοσοφίας...οὗ μεῖζον ἀγαθὸν οὔτ' ἦλθεν οὔθ' ἥξει ποτὲ τῷ θνητῷ γένει δωρηθὲν ἐκ θεῶν.*

vitae datum est. Haec enim una nos cum ceteras res omnes, tum, quod est difficillimum, docuit, ut nosmet ipsos nosceremus: cuius praecepti tanta vis et tanta sententia est, ut ea non homini quoipiam, sed Delphico deo tribueretur. **59.** Nam qui se ipse norit, primum aliquid se habere sentiet divinum ingeniumque in se suum sicut simulacrum aliquod dicatum putabit, tantoque munere deorum semper dignum aliquid et faciet et sentiet, et, quom se ipse perspexerit totumque temptarit, intelleget, quem ad modum a natura subornatus in vitam venerit quantaque instrumenta habeat ad obtinendam adipiscendamque sapientiam, quoniam principio rerum omnium quasi adumbratas intellegentias animo ac mente conceperit, quibus inlustratis sapientia duce bonum virum et ob eam ipsam causam cernat se beatum fore.

XXIII. **60.** Nam quom animus cognitis perceptisque virtutibus ab corporis obsequio indulgentiaque discesserit voluptatemque sicut labem aliquam dedecoris obpresserit omnemque mortis dolorisque timorem effugerit societatemque caritatis coierit cum suis omnis-

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nosceremus. The γνῶθι σεαυτὸν of Chilo. cp. *Fin.* v. 16. 44.

est...tribueretur. We may regard **est** as a historical present. Madv. L. G. §. 382. obs.

§. **59. Simulacrum.** cp. Plato, *Sympos.* 216. E. σπουδάσαντος δὲ αὐτοῦ (Σωκράτους) καὶ ἀνοιχθέντος οὐκ οἶδα εἴ τις ἑώρακε τὰ ἔντος ἀγάλματα.

subornatus. Bake compares ὑπάρχειν. The preposition **sub** suggests a **basis** from which one starts and is thus peculiarly applicable to the κοιναὶ ἔννοιαι.

obtinendam. "holding on to and acquiring." Madvig calls this a '*durissima hysterologia*'; but we may refer **obtinendam** to the *igniculi* (§. 33); whereas the more perfect *sapientia* is of later growth (§. 27.).

principio. 'in the beginning' (of his life). Bake and others read **principia.**

§. **60.** Allusion is here made to the four virtues, (1) **a corporis obsequio**='*temperantia*' (2) **timorem.**='*fortitudo*' (3) **societatemque cet.** ='*iustitia.*' (4) '**prudentia.**'

dedecoris. Feldh. explains this as a '*genitivus causae*' = '*labem, quam dedecus adspergit.*' Bake takes it to mean '*dedecus tanquam labem.*'

coierit. MSS. have variously **coniecerit, coecerit** and **eiecerit.**

que natura coniunctos suos duxerit cultumque deorum et puram religionem susceperit et exacuerit illam, ut oculorum, sic ingenii aciem ad bona eligenda et reicienda contraria, quae virtus ex providendo est appellata prudentia: quid eo dici aut cogitari poterit beatius? **61.** Idemque cum caelum, terras, maria rerumque omnium naturam perspexerit, eaque unde generata, quo recurrant, quando, quo modo obitura, quid in his mortale et caducum, quid divinum aeternumque sit, viderit ipsumque ea moderantem et regentem paene prenderit seseque non unius circumdatum moenibus loci, set civem totius mundi quasi unius urbis agnoverit, in hac ille magnificentia rerum atque in hoc conspectu et cognitione naturae, di inmortales, quam se ipse noscet, quod Apollo praecepit Pythius, quam contemnet, quam despiciet, quam pro nihilo putabit ea, quae volgo dicuntur amplissima! XXIV. **62.** Atque haec omnia quasi saepimento aliquo vallabit disserendi ratione, veri et falsi iudicandi scientia et arte quadam intellegendi, quid quamque rem sequatur et quid sit quoique con-

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Were it not that **eiecerit** is said to be the reading of inferior MSS. I should be inclined to hazard **eicerit** (for *icerit*); cp. *foedus icere.*

cogitari. Bake defends this reading against that of inferior MSS. **excogitari**: 'imagined' is clearly more suitable than 'devised.' cp. *ad. Attic.* IX. 6. *fin.*

§. **61.** **ipsumque.** Feldh. remarks that Cicero occasionally uses *ipse* in reflexive sense "*cum in ipso homine vel re* **notanda** *et ab aliis* **separanda** *momentum orationis est.*" But, is it clear that **ipsum** does not refer to the "*Summus Deus*"?

non unius. Vahlen defends the reading **non his** (MSS. **omnis**) **circumdatum moenibus popularem alicuius definiti loci,** but other Editors recognize **popularem al. def.** as a gloss. Turnebus remarks that this sentiment was common to Stoics and Academics. cp. *Fin.* III. 19. 64; *Acad.* I. 5. 21.

§. **62.** **saepimento.** The Stoics applied to Philosophy the simile of a fertile field; of which διαλεκτική was the **fence**, ἠθική the **fruit**, φυσική the **soil**. (Preller, *Hist. Phil.* §. 396.).

veri—contrarium. This clause is a definition of '**disserendi ratione**' (διαλεκτική).

trarium. Quomque se ad civilem societatem natum senserit, non solum illa subtili disputatione sibi utendum putabit, sed etiam fusa latius perpetua oratione, qua regat populos, qua stabiliat leges, qua castiget improbos, qua tueatur bonos, qua laudet claros viros, qua praecepta salutis et laudis apte ad persuadendum edat suis civibus, qua hortari ad decus, revocare ab flagitio, consolari possit adflictos factaque et consulta fortium et sapientium cum improborum ignominia sempiternis monumentis prodere. Quae quom tot res tantaeque sint, quae inesse in homine perspiciantur ab iis, qui se ipsi velint nosse, earum parens est educatrixque sapientia. *Att.* Laudata *est ea* quidem a te graviter et vere: sed quorsus hoc pertinet? 63. *M.* Primum ad ea, Pomponi, de quibus acturi iam sumus, quae tanta esse volumus; non enim erunt, nisi ea fuerint, unde illa manant, amplissima. Deinde facio et lubenter et, ut spero, recte, quod eam, quoius studio teneor quaeque me eum, quicumque sum, effecit, non possum silentio praeterire. *Att.* vero facis et merito et pie, fuitque id, ut dicis, in hoc sermone faciundum.

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societatem. cp. Aristot. *Pol.* I. 2. *πολιτικὸν ὁ ἄνθρωπος ζῷον.*

fusa latius perpetua. Feldh. remarks that this is not *asyndeton*, but that it is the '*perpetua oratio*' which is said to be '*fusa latius.*' With this passage Bake comp. Aristot. Rhet. I. 4. 10. *ἡ Ῥητορικὴ σύγκειται μὲν ἔκ τε τῆς ἀναλυτικῆς ἐπιστήμης καὶ τῆς περὶ τὰ ἤθη πολιτικῆς.*

praecepta salutis. *viz.* such as will conduce to their welfare and honour.

Laudata est ea. Halm's conjecture **est ea**, although wanting in MSS. is manifestly required. Other Editors supply **est** either after **quidem** or **vere**. For the pronoun, See §. 6. *n.*

§. **63.** **tanta.** *sc.* as those subjects of which he has treated. But Feldh. explains "**quanta cum maxime.**"

vero facis. Vahlen's admirable conjecture of **pie** (dutifully) for MSS. **ipse**, gives excellent sense with the least alteration. Halm reads **Tu vero facis recte et merito et ipse, fuitque**; supplying **Tu** from his own conjecture and **recte** from that of Feldh. The latter explains **ipse**=*ultro*.

LIBER SECUNDUS.

I. 1. *Atticus.* Sed visne, quoniam et satis iam ambulatum est et tibi aliud dicendi initium sumendum est, locum mutemus et in insula, quae est in Fibreno—nam, opinor, id illi alteri flumini nomen est—, sermoni reliquo demus operam sedentes? *M.* Sane quidem; nam illo loco libentissime soleo uti, sive quid mecum ipse cogito sive aliquid scribo aut lego. 2. *Att.* Equidem, qui nunc potissimum huc venerim, satiari non queo, magnificasque villas et pavimenta marmorea et laqueata tecta contemno: ductus vero aquarum, quos isti nilos et euripos vocant, quis non, cum haec videat, inriserit? Itaque, ut tu paulo ante de lege et de iure disserens ad naturam referebas omnia, sic in his ipsis rebus, quae ad requietem animi delectationemque quaeruntur, natura dominatur. Quare antea mirabar—nihil enim his in locis nisi saxa et montes cogitabam, itaque ut facerem et orationibus inducebar tuis et versibus,—sed mirabar, ut dixi, te tam valde hoc loco delectari: nunc contra miror te, cum Roma absis,

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§§. 1—6. The proposal of Atticus that they should shift their quarters to an islet of the Fibrenus, for the renewal of their discourse, leads to some remarks on the surrounding scenery; in which Cicero, the '**novus homo**' and '**municipalis**,' takes occasion to reply indirectly to his detractors.

§. 1. **Fibreno.** cp. Silius Ital. VIII. 400. "*At qui Fibreno miscentem flumina Lirim Sulphureum, tacitisque vadis ad litora lapsum Accolit Arpinas.*"

opinor id. MSS. omit **id** which is supplied by Davies; Halm prefers **hoc.** Goerenz **Liri alteri.**

§. 2. **potissimum.** On this hot summer's day. cp. I. §. 15. and Plato, *Phaedr.* 229. A. ἄλλως τε καὶ τήνδε τὴν ὥραν τοῦ ἔτους τε καὶ τῆς ἡμέρας.

isti. 'your fine friends.' For these extravagances cp. Pliny, *Ep.* I. 3. Cicero, *ad* Q. F. III. 9.

orationibus. cp. Planc. IX. 22.; Attic. II. *Epp.* XV. 3. xi. 2. Moser thought that Cicero's 'conversation,' rather than his speeches, was alluded to, but Bake objects that this would require the Singular Number.

usquam potius esse. 3. *M.* Ego vero, cum licet pluris dies abesse, praesertim hoc tempore anni, et amoenitatem hanc et salubritatem sequor, raro autem licet. Sed nimirum me alia quoque causa delectat, quae te non attingit ita. *Att.* Quae tandem ista causa est? *M.* Quia, si verum dicimus, haec est mea et huius fratris mei germana patria: hic enim orti stirpe antiquissima sumus; hic sacra, hic genus, hic maiorum multa vestigia. Quid plura? hanc vides villam, ut nunc quidem est, lautius aedificatam patris nostri studio, qui cum esset infirma valetudine, hic fere aetatem egit in litteris. Sed hoc ipso in loco, cum avos viveret et antiquo more parva esset villa, ut illa Curiana in Sabinis, me scito esse natum. Qua re inest nescio quid et latet in animo ac sensu meo, quo me plus hic locus fortasse delectet, si quidem etiam ille sapientissimus vir, Ithacam ut videret, inmortalitatem scribitur repudiasse.

II. 4. *Att.* Ego vero tibi istam iustam causam puto, cur huc libentius venias atque hunc locum diligas. Quin ipse, vere dicam, sum illi villae amicior modo

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§. 3. **amoenitatem hanc.** cp. *Epp. ad. Q. F.* III. i. 1. Some Editors prefer **salubritatem hanc.** Bake's objection that **hanc**= "*which we see,*" would not suit **salubritatem,** of which Atticus could not judge, is ridiculed by Feldh.: of course we may render **hanc** by *huius loci;* but Bake seems right.

attingit ita. *i.e. ut me.* Halm thinks that Davies and Ernesti are right in rejecting **ita**; but Vahlen "*qui* **ita** *delent tollunt urbanitatem orationis.*"

antiquissima. Cicero jestingly claimed descent from Tullus Hostilius cp. *Tusc.* I. 16, "*meo regnante gentili.*" Jest and earnest are curiously mingled here. cp. *pro Sulla* VII. 23.

Curiana. M. Curius Dentatus, cp. *de Senect.* XVI. 55. He, like Cicero, was the first Consul of his family.

scribitur. cp. Odyss. I. 56. VII. 224. For **inmortalitatem** = "exemption from death" Bake compares *Phil.* X. 10., cp. also *pro Milon.* VII. 16.

§. 4. **puto.** Halm supplies **esse** after **puto.**

illi villae. 'Yon villa' is contrasted with **huic** *solo* "which surrounds us and on which we are standing." cp. I. i. 1.

factus atque huic omni solo, in quo tu ortus et procreatus es. Movemur enim nescio quo pacto locis ipsis, in quibus eorum, quos diligimus aut admiramur, adsunt vestigia. Me quidem ipsae illae nostrae Athenae non tam operibus magnificis exquisitisque antiquorum artibus delectant quam recordatione summorum virorum, ubi quisque habitare, ubi sedere, ubi disputare sit solitus, studioseque eorum etiam sepulcra contemplor. Quare istum, ubi tu es natus, plus amabo posthac locum. *M.* Gaudeo igitur me incunabula paene mea tibi ostendisse. 5. *Att.* Equidem me cognosse admodum gaudeo. Sed illud tamen quale est, quod paulo ante dixisti, hunc locum—idem ego te accipio dicere Arpinum,—germanam patriam esse vestram? numquid duas habetis patrias, an est una illa patria communis? nisi forte sapienti illi Catoni fuit patria non Roma, sed Tusculum. *M.* Ego me hercule et illi et omnibus municipibus duas esse censeo patrias,

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nescio quo pacto. *οὐκ οἶδ' ὅντινα τρόπον.* "in some mysterious way." cp. *Fin.* v. I. where Piso speaking of this feeling is made to say "*naturane nobis hoc datum dicam an errore quodam?*"

artibus. Feldh. says '**Artes** *non sunt ipsa monumenta, sed elucent in operibus, quae dixit.*' This is therefore an instance of *ἓν διὰ δυοῖν.* Bake is doubtful as to Horace IV. viii. 5. '**artium,**' being sufficient to justify the rendering "**works of art**" in prose, but quotes Strabo, XIV. i. 14. *ἀναθήμασι τῶν ἀρχαίων τεχνῶν.*

§. **5. idem ego.** Halm calls this a '*locus admodum suspectus.*' For **idem** Görenz conjectured **id enim**; which, or **ita enim,** Halm seems to approve. Feldh. defends **idem,** I think, rightly; **hunc locum** is quoted from (§. 3.) Cicero's words, and **idem** is attracted to the gender of **Arpinum.** Trans. "And by 'this spot' I understand you to mean Arpinum."

numquid duas habetis. Halm reads **Quid? duas vos h.** The plural, of course, refers to the family; we must be careful not to suppose that *vos, vester* are used like *nos* and *noster* for the singular.

an est. Some Editors require *an non;* but Madvig (*L. Gr.* §. 453.) remarks than *an* is occasionally used, when the English idiom would require *an non,* "where the speaker himself appends an answer under the form of a new question." **illa** *sc.* **Roma.**

Catoni. M. P. C. Major. Cicero loves the comparison, See *de Senec. passim.* **nisi forte** cp. I. §. 2. *n.*

municipibus. The inhabitants of *municipia* (Italian towns which

unam naturae, alteram civitatis. Ut ille Cato, quom esset Tusculi natus, in populi Romani civitatem susceptus est, itaque, quom ortu Tusculanus esset, civitate Romanus, habuit alteram loci patriam, alteram iuris; ut vestri Attici, prius quam Theseus eos demigrare ex agris et in astu, quod appellatur, omnis se conferre iussit, et sui erant idem et Attici: sic nos et eam patriam ducimus, ubi nati, *et illam, in quam recepti* sumus. Sed necesse est caritate eam praestare, qua rei publicae nomen universae civitatis est, pro qua mori et cui nos totos dedere et in qua nostra omnia

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under a *fœdus* with Rome enjoyed more or less political advantages) after the passing of the *lex Julia* (*U. C.* 663.) had all the privileges of Roman citizens (See Ramsay, *R. A.*).

itaque. Halm after Lambinus. Feldh. says '*sine causa nec facete*;' but as, in the present case, **sic** is the correlative of **ut**, the MSS. **ita** would be confusing.

Theseus. Thucydides (II. 15) tells us that before Theseus ἡ Ἀττικὴ κατὰ πόλεις ᾠκεῖτο, πρυτανεῖά τε ἔχουσα καὶ ἄρχοντας but Theseus καταλύσας τῶν ἄλλων πόλεων τά τε βουλευτήρια καὶ τὰς ἀρχὰς, ἐς τὴν νῦν πόλιν οὖσαν, ἓν βουλευτήριον ἀποδείξας καὶ πρυτανεῖον, ξυνῴκισε πάντας.

iussit, et sui. Halm reads **iussisset, sui**; but **et** seems to be required and the conjunctive is less suitable (Madv. *L. G.* §. 360). The best MSS. exhibit **et symfrantidem et atticis**; from which Schütz conjectured **et suae φρατρίας erant iidem**; Madvig and Bake, following in the steps of Davies, evolved the reading of the text; which has been generally adopted. Thucydides (*l. c.*) makes Cicero's meaning clear enough: viz. the inhabitant of a δῆμος belonged both to his particular δῆμος (and was so surnamed *e. g.* Θριάσιος) and to Athens the *patria communis*, just as the *municeps* belonged both to his *municipium* and to Rome.

et illam in quam recepti. These words are omitted in the best MSS. Bake reads **a qua excepti.** To my mind, *glossam sapit;* because Cicero is excusing himself, ostensibly, for calling **Arpinum 'patria,'** not asserting his claim to *Roma.*

qua reipublicae. Feldhügel's explanation seems correct: the *respublica* is the *summa respublica* (III. 16. 36) the *urbs Romana:* the **universa civitas** embraced all the citizens, both those who lived in the *summa* and in the *municipalis respublica*; to the latter the *nomen Romanum* properly belonging to the *summa r. p.* is said to be transferred. As for the construction, **reipublicae** depends upon **nomen**, and **civitatis** upon **est**; **qua** is an *ablativus causae.* Translate:—"which gives the name of the community to the state as a whole." Of the many alterations proposed, Madvig suggested **e qua populo Romano nomen.** Wyttenbach **quae rei pub. nomine universa civitas est.**

ponere et quasi consecrare debemus. Dulcis autem non multo secus est ea, quae genuit, quam illa, quae excepit. Itaque ego hanc meam esse patriam prosus numquam negabo, dum illa sit maior, haec in ea contineatur.

III. 6. *Att.* Recte igitur Magnus ille noster me audiente posuit in iudicio, quom pro Ampio tecum simul diceret, rem publicam nostram iustissimas huic municipio gratias agere posse, quod ex eo duo sui conservatores exstitissent, uti iam videar adduci hanc quoque, quae te procrearit, esse patriam tuam. Sed ventum in insulam est: hac vero nihil est amoenius. Ut enim hoc quasi rostro finditur Fibrenus et divisus aequaliter in duas partes latera haec adluit rapideque dilapsus cito in unum confluit et tantum conplectitur quod satis sit modicae palaestrae loci. Quo effecto, tamquam id habuerit operis ac muneris, ut hanc nobis efficeret sedem ad disputandum, statim praecipitat in Lirem et, quasi in familiam patriciam venerit, amittit

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dum illa—contineatur. Some critics suspect this passage: Madvig considers it genuine. **illa**, of course, is *Roma* and **haec** *Arpinum.* After **contineatur** the best MSS. have **habet civitatis et unam illam civitatem putat.**

§. 6. **Magnus ille.** Pompeius. Bake quotes Livy, XXX. 45. and *Epp. ad Fam.* V. 7.

posuit. 'Affirmed in court.' For **Ampio** MSS. have **Ambio.** T. Ampius Balbus, who was a common friend of Pompeius and Cicero, is supposed to be the person meant. cp. *ad Div.* XIII. LXX., *Attic.* VIII. xi.

conservatores. Marius, in the wars with the Teutones and Cimbri, was the other: cp. *pro Sestio*, XXII. 50.

adduci—esse. an elliptical expression for *adduci* **ut credam**—*esse.* cp. Cic. *Fin.* I. v. 14. Some explain it as a construction κατὰ σύνεσιν *i.e.* **adduci** = *persuaderi* and is similarly used.

Ut enim. Vahlen and MSS.; **etenim** Lambinus. **ut** '*exclamantis:*' "For, see how &c.!"

palaestrae. Bake quotes *ad Attic.* XII. 12.; whence it appears that Cicero, at one time, thought of erecting a memorial of his daughter Tulia on this islet.

amittit nomen. cp. Ovid. IV. 337. When a Plebeian entered a Patrician *gens*, the process was termed *adlectio.* (See Ramsay, *R. A.*).

nomen obscurius Liremque multo gelidiorem facit. Nec enim ullum hoc frigidius flumen attigi, cum ad multa accesserim, ut vix pede temptare id possim, quod in Phaedro Platonis facit Socrates. **7.** *M.* Est vero ita, sed tamen huic amoenitati, quem ex Quinto saepe audio, Thyamis Epirotes tuus ille nihil, opinor, concesserit. *Q.* Est ita, ut dicis; cave enim putes Attici nostri Amalthio platanisque illis quicquam esse praeclarius. Sed, si videtur, considamus hic in umbra atque ad eam partem sermonis, ex qua egressi sumus, revertamur. *M.* Praeclare exigis, Quinte,—at ego effugisse arbitrabar—et tibi horum nihil deberi potest. *Q.* Ordire igitur; nam hunc tibi totum dicamus diem.

M. **A Iove Musarum primordia**, sicut in Aratio carmine orsi sumus. *Q.* Quorsum istuc? *M.* Quia nunc item ab eodem et a ceteris dis inmortalibus sunt nobis agendi capienda primordia. **8.** *Q.* Optime vero, frater, et fieri sic decet.

IV. *M.* Videamus igitur rursus, prius quam adgrediamur ad leges singulas, vim naturamque legis, ne, quom referenda sint ad eam nobis omnia, labamur interdum errore sermonis ignoremusque vim

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Phaedro. Plato, *Phaedr.* 230. B. cp. *de Orat.* I. vii. 28.

§. 7. **quem.** *v. l.* **quam.** The Thyamis: **quem** = *de quo*. Atticus had a villa, τὸ Ἀμαλθεῖον, near this stream. Cicero, at one time, thought of erecting some thing similar to it at Arpinum; probably on this spot. cp. *ad Attic.* I. xvi. 18. VII. ii. 3.

exigis—deberi. "You dun splendidly—and none of these things can be *owed* to you." cp. III. xi. 26.

'A Iove.' The Φαινόμενα of Aratus, which Cicero once translated, commences Ἐκ Διὸς ἀρχώμεσθα κ. τ. λ. cp. Plato, *Legg.* IV. 712. B.

§§. 8—17. Resuming the discourse, Marcus calls attention to the definition of **Law** in Bk. I.; adding some remarks on the misleading tendency of the word *Lex* in its customary acceptation. Following Plato's example, he introduces the laws on Religion with a preface concerning the power and goodness of the Gods and the advantages accruing to society from a belief in them.

[sermonis] eius, quo iura nobis definienda sunt. *Q.* Sane quidem hercule, et est ista recta docendi via. *M.* Hanc igitur video expressam sapientissimorum fuisse sententiam, legem neque hominum ingeniis excogitatam nec scitum aliquod esse populorum, sed aeternum quiddam, quod universum mundum regeret imperandi prohibendique sapientia. Ita principem legem illam et ultimam mentem esse dicebant omnia ratione aut cogentis aut vetantis dei: ex qua illa lex, quam di humano generi dederunt, recte est laudata; est enim ratio mensque sapientis ad iubendum et ad deterrendum idonea. 9. *Q.* Aliquotiens iam iste locus a te tactus est: sed ante quam ad populares leges venias, vim istius caelestis legis explana, si placet, ne aestus nos consuetudinis absorbeat et ad sermonis morem usitati trahat. *M.* A parvis enim, Quinte, didicimus, **si in ius vocat** atque eius modi leges alias nominare. Sed

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§. 8. **[sermonis] eius, quo.** Halm omits **sermonis** and reads **quom** for **quo.** Feld. defends the MSS.; **sermonis,** he thinks, is used here in a more limited sense = '*philosophici*' as opposed to the preceding '*quotidiani.*' For my own part, Bake seems right in rejecting the second **sermonis** and referring **eius** to **vim naturamque legis**; the gender of **eius** is neuter, to agree with the abstract notion.

expressam. Vahlen's conjecture: MSS. have **ex,** which arose, probably, from the abbreviation **expsa**; *r* and *m* being indicated by a dash. Other editions omit **ex**: cp. *Acad. pr.* II. 24, 77. "*Nemo umquam superiorum non modo* **expresserat,** *sed ne dixerat quidem posse hominem nihil opinari.*"

principem cet. cp. I. §. 18.

ex qua. Davies **ex quo.** *i. e.* from the fact that the *mens Dei* is the *summa lex.* Feldh. and Halm defend **ex qua,** as an abbreviation for "*ex qua* **(principe lege)** *cum orta sit*" &c. (Gk. ἐξ ἧς οὖσα.)

§. 9. **populares.** cp. I. §. 19. Bake thinks that this paragraph and the preceding "**videamus igitur &c.**" are alternatives; one or other of which Cicero would have omitted on a final revision.

si in ius vocat. The MSS. have **vocat atque at.** whence some have conjectured **si in ius vocat atque eat.** "If a person summons another before the Praetor; forthwith let him go." But, as Feldh. says, the subjunctive is clearly out of place in a law. The 1st. law of the XII Tables is here indicated by the first four words with which it commences. (See Bach, *Hist. Jurispr. Rom.*: Wordsworth, *Fragments &c.* p. 508.).

vero intellegi sic oportet, et hoc et alia iussa ac vetita populorum vim habere ad recte facta vocandi et a peccatis avocandi, quae *tamen* vis non modo senior est quam aetas populorum et civitatium, sed aequalis illius caelum atque terras tuentis et regentis dei. **10.** Neque enim esse mens divina sine ratione potest, nec ratio divina non hanc vim in rectis pravisque sanciendis habet, nec, quia nusquam erat scriptum, ut contra omnis hostium copias in ponte unus adsisteret a tergoque pontem interscindi iuberet, idcirco minus Coclitem illum rem gessisse tantam fortitudinis lege atque imperio putabimus, nec, si regnante L. Tarquinio nulla erat Romae scripta lex de stupris, idcirco non contra illam legem sempiternam Sex. Tarquinius vim Lucretiae, Tricipitini filiae, attulit. Erat enim ratio, profecta a rerum natura, et ad recte faciendum impellens et a delicto avocans, quae non tum denique incipit lex esse, quom scripta est, sed tum, cum orta est; orta autem est simul cum mente divina. Quam ob rem lex vera atque princeps apta ad iubendum et ad vetandum ratio est recta summi Iovis.

V. **11.** *Q.* Adsentior, frater, ut, quod est rectum verumque, id neque cum litteris, quibus scita descri-

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vim habere. Some would supply **non** before **habere**; but Bake shows that the sense is: "laws generally have this power; yet it does not proceed from the laws themselves but is anterior &c."

tamen, which I have conjectured from the MSS. B. **avocandiq. tuis** and C. **avocandi quinte tuis**, seems necessary for the sense and is scarcely an alteration; **tamen** would be indicated in MSS. by *t* with a dash.

§. 10. **Coclitem.** Livy, II. 10. **Tarquinius.** I. 58.

orta. cp. Sophocl. *Antig.* vv. 456. foll.

§. 11. **rectum verumque id.** For **id** MSS. have **sit.** Vahlen, after Davies, seeing that **rectum verumque** is a regular collocation, adds **aeternum quoque sit**; but it seems easier to read **id** for **sit** than to adopt this conjecture, or to accept and explain the vulgate **rectum verum quoque sit**: where Bake and Feldh. draw the following distinction between **rectum** and **verum**: the former (τὸ ὀρθόν) is 'the absolutely right' in theory; the latter is used with reference to the standard, by which things just and unjust are to be judged: thus "that which is absolutely right is also the true law."

buntur, aut oriatur aut occidat. *M.* Ergo [ut] illa divina mens summa lex est, item, quom in homine est perfecta, in mente *est* sapientis. Quae sunt autem varie et ad tempus descriptae populis, favore magis quam re legum nomen tenent. Omnem enim legem, quae quidem recte lex appellari possit, esse laudabilem quibusdam talibus argumentis docent. Constat profecto ad salutem civium civitatumque incolumitatem vitamque hominum quietam et beatam inventas esse leges, eosque, qui primum eius modi scita sanxerint, populis ostendisse ea se scripturos atque laturos, quibus illi adscitis susceptisque honeste beateque viverent, quaeque ita conposita sanctaque essent, eas leges videlicet †nominarent. Ex quo intellegi par est eos, qui perniciosa et iniusta populis iussa descripserint, quom contra fecerint quam polliciti professique sint, quidvis potius tulisse quam leges, ut perspicuum esse possit in ipso nomine legis interpretando inesse vim et sententiam iusti et veri legendi. 12. Quaero igitur a te, Quinte, sicut illi solent: Quo si civitas careat, ob eam

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Ergo ut illa. In I. §. 18. we find "*eadem ratio quom est in hominis mente confirmata et perfecta, lex est.*" The awkwardness lies in the comparison; Vahlen would read **perfecta** (*ratio, lex est: ea vero est perfecta*) **in mente.** The MSS. omit **est** after **mente.** I am inclined to think that the difficulty may be avoided by omitting **ut**, which would creep in from its similarity to the first three letters of **illa.** There is no difficulty in understanding *ratio* or *lex* with **perfecta.**

descriptae. *v. l.* **descripta.** viz. 'by the legislators.' Bake compares Plato, *Legg.* I. 630 E.

nominarent. Those who defend this reading must either make *illi* the subject of *nominarent*; or consider it a case of attraction to *viverent*; but it seems better to read either *nominarunt*, with Victorius, or *nominasse* with Halm.

iussa descripserint. Ernesti would read **iura**; but, although *iura describere* is the regular phrase, Feldh. I think, rightly maintains that **iussa** is purposely used here "*ut luculentius vim eorum in eo solo cerni declararet quod iuberentur.*"

interpretando. *i. e.* "*si nomen legis interpretari velimus.*" Bake cp. I. §. 19.

§. 12. **illi.** The Stoics, whose syllogistic method is imitated in the following version of *οὗ δεομένη πόλις δι' αὐτὸ οὐδέν ἐστι, ἐν ἀγαθοῖς ἀριθμητέον*; Bake.

ipsam causam, quod eo careat, pro nihilo habenda sit, id estne numerandum in bonis? *Q.* Ac maxumis quidem. *M.* Lege autem carens civitas estne ob *id* ipsum habenda nullo loco? *Q.* Dici aliter non potest. *M.* Necesse est igitur legem haberi in rebus optimis. *Q.* Prosus adsentior. 13. *M.* Quid? quod multa perniciose, multa pestifere sciscuntur in populis, quae non magis legis nomen adtingunt, quam si latrones aliquas consessu suo sanxerint. Nam neque medicorum praecepta dici vere possunt, si quae inscii inperitique pro salutaribus mortifera conscripserunt, neque in populo lex, cuicuimodi fuerit illa, etiam si perniciosum aliquid populus acceperit. Ergo est lex iustorum iniustorumque distinctio, ad illam antiquissimam et rerum omnium principem expressa naturam, ad quam leges hominum diriguntur, quae supplicio inprobos adficiunt, defendunt ac tuentur bonos.

VI. *Q.* Praeclare intellego, nec vero iam aliam esse ullam legem puto non modo habendam, sed ne appellandam quidem. 14. *M.* Igitur tu Titias et Apuleias leges nullas putas? *Q.* Ego vero ne

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ob id ipsum. MSS. omit id, which is due to Lambinus: cp. Madvig, *ad Fin.* II. 28, 93.

§. 13. **latrones.** *v. l.* **latores.** Bake comp. *Offic.* II. 11. 40.; Xenoph. *Mem.* I. 2. 43.; Plato, *Gorg.* 489. c.

cuicuimodi fuerit. *i. e.* however bad. For this form of the genitive, cp. Terence, *Adelph.* III. iii. 4. (*aliquoi*); Cic. *Fin.* III. 9. 30., *ad Div.* IV. vii. 4. For the transition—*cuiuscuiusmodi, cuiscuismodi, cuicuimodi*— See Schweizer-Sidler §. 117; Wordsworth, *Frag. &c.* p. 104.

naturam. Here again **natura** is synonymous with the **Summa Lex**, the heavenly archetype, after which all true laws are moulded. cp. §. 10.

§. 14. **non modo.** 'I do not *merely* say.' Madvig, L. G. §. 461.

Titias et Apuleias. Sextus Titius (Tr. Pleb. *U. C.* 655.) and L. Apuleius Saturninus (Tr. Pleb. *U. C.* 653.) like the Gracchi, lost their lives through the factions which were provoked by their agrarian laws. cp. *Pro Rabir.* IX., *Brut.* LXII. (Mommsen, *Hist.* Vol. III. pp. 207. foll.)

Livias quidem. *M.* Et recte, quae praesertim uno versiculo senatus puncto temporis sublatae sint: lex autem illa, cuius vim explicavi, neque tolli neque abrogari potest. *Q.* Eas tu igitur leges rogabis videlicet, quae numquam abrogentur. *M.* Certe, si modo acceptae a duobus vobis erunt. Sed, ut vir doctissimus fecit Plato atque idem gravissimus philosophorum omnium, qui princeps de re publica conscripsit idemque separatim de legibus eius, idem mihi credo esse faciundum, ut, prius quam ipsam legem recitem, de eius legis laude dicam. Quod idem etiam Zaleucum et Charondam fecisse video, quom quidem illi non studii et delectationis, sed rei publicae causa leges civitatibus suis scripserunt. Quos imitatus Plato videlicet hoc quoque legis putavit esse, persuadere aliquid, non omnia vi ac minis cogere. 15. *Q.* Quid? quod Zaleucum istum

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Livias. M. Livius Drusus M. F. (Tr. Pleb. 663.) in addition to agrarian and other popular reforms, proposed to confer the *civitas* upon the Italian *socii;* it was the denial of this boon which gave rise to the Social war. cp. II. §. 31.

uno versiculo. 'one short sentence.' Some have supposed this to mean the decree "*videant consules &c.*" (See Ramsay, *R. A. decretum ultimum.*); but (§. 31.) we are told they were cancelled on the ground of informality. (Mommsen, Vol. III. p. 225.).

idem mihi. Halm comp. *de Off.* I. §. I. "Ut *ipse ad meam utilitatem semper*—idem *tibi censeo faciundum.*" MSS. have id, which Feldh. explains as an *anacoluthon,* the sentence being ended as if it had begun quod *vir &c.*

legis. Halm would omit **legis**; but Vahlen compares II. §. 58. *pro Mur.* XIV. 31. *pro Mil.* XXVII. 74. *&c.*, in defense of the repetition.

Zaleucum. Zaleucus, a lawgiver of the Locri Epizephyrii, and Charondas, of Catana, are noticed by Aristotle, *Polit.* II. 12.; their names seem to have been generally coupled together; and the same stories are told of both. Bentley (*Phalaris* pp. 334. foll.) argues that the laws quoted by Stobaeus are spurious; and that Zaleucus *flor.*, if at all, long before Locri was founded.

scripserunt. Bake, finding it difficult to accept quom as *temporal,* would read *scripserint.*

imitatus Plato. Bake remarks that Plato disclaims imitation, in the passage alluded to (*Legg.* IV. 722.), *πρὸς τοῦτο δὲ οὐδεὶς ἔοικε διανοηθῆναι πώποτε τῶν νομοθετῶν ὡς, ἐξὸν δυοῖν χρῆσθαι πρὸς τὰς νομοθεσίας, πειθοῖ καὶ βίᾳ, τῷ ἑτέρῳ χρῶνται μόνον.*

negat ullum fuisse Timaeus? *M.* At Theophrastus, auctor haud deterior mea quidem sententia,—meliorem multi nominant—: commemorant vero ipsius cives, nostri clientes, Locri. Sed sive fuit sive non fuit, nihil ad rem: loquimur quod traditum est.

VII. Sit igitur hoc iam a principio persuasum civibus, dominos esse omnium rerum ac moderatores deos eaque, quae gerantur, eorum geri [vi] dicione ac numine, eosdemque optime de genere hominum mereri et qualis quisque sit, quid agat, quid in se admittat, qua mente, qua pietate colat religiones, intueri piorumque et impiorum habere rationem. 16. His enim rebus inbutae mentes haud sane abhorrebunt ab utili aut a vera sententia. Quid est enim verius quam neminem esse oportere tam stulte adrogantem, ut in se rationem et mentem putet inesse, in caelo mundoque non putet? aut ut ea, quae vix summa ingenii *ratione comprehendat, nulla* ratione moveri putet? Quem vero astrorum ordines, quem dierum noctiumque vicissitudines, quem mensum temperatio quemque ea, quae gignuntur nobis ad fruen-

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§. 15. **Timaeus.** Of Tauromenium, the historian, (*flor.* A.C. 264) and Theophrastus, of Eresus, Aristotle's successor, are mentioned again in this connection *Epp. ad Attic.* VI. i. 18.

At Theophrastus. Supply *fuisse adfirmat* from the preceding **negat.** Feld. compares *Off.* III. 2, 9. "*negant eum locum a Panaetio praetermissum, sed consulto relictum.*" *See* Madvig, *Fin.* II. 8, 25. As *nominant* would be much more suitable with *Zaleucum* for its object, **commemorant** being an apparent antithet, Editors have tried several emendations: Lipsius **melior; eum multis nominat;** Davies **melior, eum et multi nominant;** Pearce **sententia, (meliorem multi** *sc. putant*) **nominat.**

clientes. cp. *pro Plancio* XLI. 97. "*quom omnia illa municipia quae sunt a Vibone Brundisium, in fide mea essent.*" As the Greek states had their πρόξενοι at Athens, so various cities and provinces attached themselves as *clientes* to a *patronus* at Rome, *e.g.* the Marcelli were the *patroni* of Sicily. (Dict. Antiq. *cliens.*).

vi, dicione. Halm thinks **vi** a gloss. Vahlen reads **iudicio ac numine.** Turnebus observes that the argument bears a likeness to the proemium of one of the supposed laws of Zaleucus, preserved by Stobaeus (XLIV. 20. (XLII.)).

§. 16. **ratione—nulla.** These words are wanting in the best MSS. Cicero uses the same argument *de Nat. D.* II. 38. and elsewhere.

dum, non gratum esse cogunt, hunc hominem omnino numerari qui decet? Quomque omnia, quae rationem habent, praestent iis, quae sint rationis expertia, nefasque sit dicere ullam rem praestare naturae omnium rerum, rationem inesse in ea confitendum est. Utilis esse autem has opiniones quis neget, cum intellegat quam multa firmentur iure iurando, quantae saluti sint foederum religiones, quam multos divini supplici metus a scelere revocarit quamque sancta sit societas civium inter ipsos, dis inmortalibus interpositis tum iudicibus, tum testibus? Habes legis prooemium; sic enim haec appellat Plato. 17. *Q.* Habeo vero, frater, et in hoc admodum delector, quod in aliis rebus aliisque sententiis versaris atque ille. Nihil enim tam dissimile quam vel ea, quae ante dixisti, vel hoc ipsum de deis exordium: unum illud mihi videris imitari, orationis genus. *M.* Velle fortasse; quis enim id potest aut umquam poterit imitari? Nam sententias interpretari perfacile est: quod quidem ego facerem, nisi plane esse vellem meus. Quid enim negotii est eadem prope verbis isdem conversa dicere? *Q.* Prosus adsentior: verum, ut modo tute dixisti, te esse malo tuum. Sed iam exprome, si placet, istas leges de religione. 18. *M.* Expromam

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cogunt. *v. l.* **cogant.** The subjunctive would signify "if there be any such person."

quae sint. Bake prefers **sunt.** The difference is slight: **sunt** = "rational beings are superior to things without reason"; **sint** = "to whatsoever is without reason."

§. 17. **de deis.** *v. l.* **legis.** Bake (whose conjecture, **de deis** from MSS. **deeis**, has been adopted by Halm and Vahlen) thinks that Cicero means that Plato discussed the gods themselves; whereas he himself treats of the effect which a belief in them has upon society. But the Latins had their own idea of originality, cp. Lucretius, *passim.*

velle. *i. e.* "*velle fortasse videor tibi: nam non possum*" *Bake.* Davies quotes *Brut.* XXXI. "*Quis enim uberior in dicendo Platone? Jovem aiunt philosophi, si Graece loquatur, sic loqui.*"

§§. 18.—69. The several clauses of the law are first recited; which, we are told, will not be found to differ much from the ancient religious

equidem, ut potero, et quoniam et locus et sermo familiaris est, legum leges voce proponam. *Q.* Quidnam id est? *M.* Sunt certa legum verba, Quinte, neque ita prisca, ut in veteribus XII sacratisque legibus, et tamen, quo plus auctoritatis habeant, paulo antiquiora quam hic sermo est. Eum morem igitur cum brevitate, si potuero, consequar. Leges autem a me edentur non perfectae—nam esset infinitum—, sed ipsae summae rerum atque sententiae. *Q.* Ita vero necesse est; quare audiamus.

VIII. 19. *M.* **Ad divos adeunto caste, pietatem adhibento, opes amovento. Qui secus faxit, deus ipse vindex erit.**

Separatim nemo habessit deos neve novos neve advenas nisi publice adscitos: privatim colunto quos rite a patribus *cultos acceperint.*

In urbibus **delubra habento: lucos in agris habento et larum sedes.**

Ritus familiae patrumque servanto.

Divos et eos, qui caelestes semper habiti, colun-

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code. Cicero next discusses it in detail, dwelling at greater length on some clauses than on others, and occasionally glancing at the opinions of Roman jurists.

locus. Bake understands this to mean the 'topic,' *de religione;* Feldh. the 'place,' where they are seated; since, if addressed to the general public, it would have savoured somewhat of affectation to use this archaic style.

veteribus XII. MSS. **ex. is.** cp. I. 55. *n.* The *sacratae leges* were so called "*quum caput eius qui contra fecerit* consecratur," *pro Balbo* XIV. 33. cp. Livy II. 33, IV. 26, V. 11. Because Livy tells us that a *lex sacrata* was passed on the occasion of the secession of the Plebs to the Mons Sacer, some have erroneously supposed that these laws derived their name from that circumstance.

cum brevitate. "*i. e. ita ut simul brevis sim.*" Bake.

§. 19. **qui secus.** cp. Xenoph. *Anab.* V. iii. 11. ἂν δέ τις μὴ ποιῇ ταῦτα τῇ θεῷ μελήσει.

adscitos. "*Ut Æsculapius Epidauro et Pessinunte accersita est Mater Deum.*" Turneb. cp. Livy, XXIX. 11.

Cultos acceperint. Madvig. **adscitos acc.** Bake. These words and the foll. **in urbibus** are omitted in MSS. but necessarily supplied from §. 26. old editions give "*colunto. Constructa a Patribus &c.*"

to et ollos quos endo caelom merita vocaverint, Herculem, Liberum, Aesculapium, Castorem, Pollucem, Quirinum, ast olla, propter quae datur homini adscensus in caelum, Mentem, Virtutem, Pietatem, Fidem, earumque laudum delubra sunto ne uncula vitiorum.

Sacra solemnia obeunto.

Feriis iurgia amovento easque in famulis operibus patratis habento; idque ut ita cadat in annuis anfractibus descriptum esto. Certasque fruges certasque bacas [sacerdotes publice] libanto certis sacrificiis ac diebus. 20. Itemque alios ad dies uberta-

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caelom—vocaverint. This is said to be the reading of the best MSS.; but it has been generally altered into **caelo—locaverint**, on the authority of Lactantius (*Div. Inst.* I. 15, 23.) who quotes, possibly from memory, thus: "*quos in caelo merita locaverunt, Herculem et.*" cp. Cic. *Off.* III. v. 25. There is said to be a *litura* between **merita** and **vocaverint**, the *a* of **merita** having been erased; this suggests to me that the original may have been "*quos endo caelom* **merito** *vocaverint (Divi).*" Munro (*Lucret.* I. 82.) remarks that, in the remains of Ennius, *indu* governs the ablative, *endo* the accusative.

earumque laudum. "And of such praiseworthy things." Feldh. thinks that Cicero intended the sentence to run "*Ast olla...consecranto;*" but changed his mind and finished up with *earumque &c.* This seems a better explanation than to consider **ast** a simple copula without any adversative force.

ne uncula. Vahlen from MSS. Halm adopts the correction **neve ulla.** To my mind, *ne uncula (unculus* is the less worn form of the dimin. *ullus* from *unus)* is the more emphatic.

iurgia amovento. Halm adopts Mommsen's conj. **ne movento.** Vahlen compares §. 19. *amovere opes.* cp. *Divin.* I. XLV. 102.

idque ut. Halm. **itaque ut** MSS. "And that it may so fall in the seasons of the year be it arranged." *e. g.* that the *feriae sementivae* may fall *hoc opere (serendi)* **patrato** *i. e. perfecto.* The duty of drawing up the Calendar devolved, of course, upon the Pontifices: *annui anfractus (solis)* in the *Repub.* (VI. 12.) = *anni.* Turneb. apparently connects **in annuis &c.** with **descriptum esto**, explaining "*in anni curriculis et fastis.*" As far as I can see, it may mean either that or "as the year goes round."

sacerdotes publice. Halm and Bake suspect these words, because these clauses refer to the *religio privata.* After **libanto**, MSS. have **hoc**, supply *faciunto.* cp. Ovid, *Fast.* III. 730. foll.

§. **20. alios ad dies.** *i.e.* "*ad alias ferias, in quibus lacte vel lactentibus hostiis opus est:*" Turneb. After **servanto** Halm indicates a *lacuna;* Vahlen thinks that the explanation (§. 29) shows that nothing is wanting here.

tem lactis feturaeque servanto; idque ne committi possit, ad eam rem ratione cursus annuos sacerdotes finiunto. Quaeque quoique divo decorae grataeque sint hostiae providento.

Divisque aliis *alii* sacerdotes, omnibus pontifices, singulis flamines sunto. Virginesque Vestales in urbe custodiunto ignem foci publici sempiternum.

Quoque haec privatim et publice modo rituque fiant discunto ignari a publicis sacerdotibus. Eorum autem genera sunto tria: unum quod praesit caerimoniis et sacris, alterum, quod interpretetur fatidicorum et vatium ecfata incognita, quorum senatus populusque adsciverit. Interpretes autem Iovis optumi maxumi, publici augures, signis et auspiciis postera vidento, disciplinam tenento, 21. sacerdotesque *et* vineta virgetaque et salutem populi augu-

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idque cet. *i. e.* "*ne in ea re peccari possit.*" Bake.

ratione. viz- by a proper system of intercalation, cp. §. 29. MSS. have **rationem.** Halm suggests *rationem cursus annui.* The *v. l.* **ad eam rem rationem,** *i. e.* '*ob eam rem et rationem*' would involve an awkward asyndeton.

Divisque aliis. Different priests for different Gods—*e. g.* Salii for Mars, &c. MSS. omit **alii**, which has been generally admitted as a necessary supplement; Halm, however, and Feldh. prefer **ollis** (*i. e.* "*illis quos supra descripsi*" §. 19.) the emendation of Turneb. In this case, *sacerdotes* would be the class, *pontifices* and *flamines* the subdivisions; which certainly suits the explanation §. 29.

sunto tria. (1) **pontifices** (*quod praesit &c.*). (2) **decemviri sacrorum** (whose duty it was to consult the Sibylline oracles). (3) **augures.** Because *interpretes* is followed by the disjunctive *autem*, Bake and others prefer the *v. l.* **duo** for **tria**; Feldh. seems right in attributing the use of *autem* to a desire to bring the third class into special prominence: cp. Philipp. II. xxxii. 80.

incognita. is, I think, a predicate. *i. e.* '*ita tamen ut incognita sint.*' cp. §. 30. "*neque ut—quisquam extra collegium nosset.*"

quorum. *i. e. quorum vatium ecfata:* see §. 30. Halm adopts Mommsen's conjecture **quae eorum.**

postera. *i. e.* '*futura*' Lambin. see §. 32. MSS. have **postea.** Halm **ostenta** *i. e.* "*ea quae signis et auspiciis ostenta sunt.*"

disciplinam tenento. "Let them keep up the practice of their college." **tenere** has here, I think, the force both of *servare* and *nosse*: cp. III. §. 41. with *Divin.* I. xlvii. 105.

§. 21. **auguranto—praemonento.** Halm and Bake consider **augures** the

ranto, quique agent rem duelli quique pro populo rem, auspicium praemonento ollique obtemperanto. Divorumque iras providento iisque adparento, caelique fulgura regionibus ratis temperanto, urbemque et agros templa liberata et ecfata habento. Quaeque augur iniusta nefasta vitiosa dira defixerit, inrita infectaque sunto, quique non paruerit, capital esto.

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subject of these verbs. "*Sacerdotes ab auguribus* **augurari** *i. e.* **inaugurari** *dicuntur*" Bake. cp. *Phil.* II. xliii. 110.

vineta virgetaque. "vineyards and plantations." Cato, *R. R.*, 141. in his directions for the *agri lustratio* includes these in the prayer. Feldh. making *sacerdotes* the subject of *auguranto*, explains that those who prayed *pro vinetis*, *&c.*, (viz. the **Fratres Arvales**), or *pro salute populi* could only do this *augurato* (we learn from Dio Cassius XXXVII. 24. that the Gods had first to be consulted as to whether it was an auspicious time to pray for the public safety); they would not, however, take the auguries themselves but '*per augures.*'

quique agent. Acc. to Bake and Halm the construction is "*augures auspicium praemonento iis qui rem duelli agent, ollique (magistratus) obtemperanto (augurum monitis).*" Feldh. and others object that the **magistratus** "*quorum auspicia erant non auguria*" would have to consult the augurs whom they had requested to assist; but that, as the Augurs did not possess the *spectio* (see Dict. Antiq. *augur*), they could not properly be said *praemonere.* cp. III. §. 43. Feldh. considers **olli** a dative = *auspicio.* For **pro populo rem** some MSS. have **popularem.**

providento. "*num irati Dii sint; ut neque domi, neque militiae, quicquam agendum sit, averso et irato numine.*" Turneb.

adparento. *i. e.* '*eorum apparitores sunto.*' III. §. 43. For **iisque** MS. C. has **sisque** (archaic for *iisque*) which Vahlen retains, (see Wordsworth, *Frag.* p. 108.).

regionibus. "*i. e. certis regionibus, quas ante lituo descripserint, cœli fulgura distinguunto.*" Feldh. The Etruscans divided the sky into sixteen divisions: eight on the E., and as many on the W.; but the Augurs into four only. cp. *Divin.* II. xviii. 43. Lucret. VI. 86 *foll.* (see *Dict. Antiq.*)

agros templa. MSS. have **et** before *templa.* "Let them use the city and the fields as '*templa*' free from obstruction and proclaimed." "**Templa** *regiones sunt aut agri certo carmine ab augure lituo finiti et notati, unde in omnes cœli partes ad augurium captandum liber erat aspectus.*" Turneb. The Augurs had the power of ordering the demolition of any building, which might interfere with their prospect. (See *Dict. Antiq.*) If we retain **et** before **templa** we must take it as explanatory: "the city &c. *I mean* their '*templa.*'"

iniusta nefasta. epithets technically applied to things done '*contra auspicia:*' for **defixerit** "stigmatised" (a technical word in divination: cp. Ovid, *Amor.* III. vii. 29. Horace, *Epod.* xvii. 5.) Halm, after Lipsius, reads **deixerit.**

IX. Foederum, pacis, belli, induciarom ratorum fetiales iudices nontii sunto: bella disceptanto.

Prodigia portenta ad Etruscos haruspices, si senatus iussit, deferunto, Etruriaque principes disciplinam doceto. Quibus divis creverint, procuranto idemque fulgura atque obstita pianto.

Nocturna mulierum sacrificia ne sunto praeter olla, quae pro populo rite fient: neve quem initianto nisi, ut adsolet, Cereri Graeco sacro.

22. Sacrum commissum, quod neque expiari

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ratorum. proleptic = *ut rata sint* (for the gender of the predicate, see Madvig, *L. G.* §. 214). MSS. have **oratorum**, which Madvig explains as the genitive of a neuter *orata* = *postulata.* **induciarom ratorum** in MSS. would appear *induciarō ratorū;* which would readily pass into *induciarom oratorum*, by an error very common in MSS. (see Madvig, *Advers.* Vol. I. pp. 26. foll.). This correction, which occurred to me independently, some years ago, (Journal of Canadian Inst. Vol. XIV. No. 5.) has been suggested also by Huschke and Urlichs.

nontii. Vahlen. cp. *in Vatin.* XV. 35. "*ut non nuntios pacis ac belli, non oratores non interpretes—senatus deligere posset.*" MSS. have **non**, which Davies thinks is a corruption of II. others of XX.; the number of the *Fetiales* would seem to have been uncertain: sometimes two, sometimes more are mentioned, cp. Livy, IX. 5. For **bella disceptanto** Vahlen hazards *bella* **a dis coeptanto.**

deferunto. "*ii. sc., quibuscumque obvenerint.*" **iussit** is archaic for *iusserit*, cp. Virgil, *Æn.* XI. 467.

Etruriaque. Turneb. explains **principes** as I. §. 43. = *Senatum:* cp. *de Divin.* I. xli. 92. "*Etruria autem de caelo tacta scientissime animadvertit. Quocirca bene apud maiores nostros senatus, tum, quum florebat imperium, decrevit, ut de principum filiis sex singulis Etruriae populis in disciplinam traderentur, ne ars tanta propter tenuitatem hominum a religionis auctoritate abduceretur ad mercedem atque quaestum.*" Bake reminds us that the lads selected for this purpose must have been *Etrusci* not *Romani;* as the art was not accounted an honourable one at Rome: the passage in Livy (IX. 36.) refers, he thinks, to general education.

creverint = '*decreverint*' *sc.* '*haruspices.*' **procurare** is regular in sense of "make atonement to."

obstita. Acc. to Festus "things struck by lightning." Bake conjectures "eclipses," because *obsistere* is used in this sense, Cic. *Rep.* I. xvi. 25.

praeter olla. The rites of the Bona Dea: cp. §. 36. For **neve quem** Feldh. prefers **neve quoi.**

Graeco sacro. Cicero, *pro Balbo*, XXIV. 55., tells us that these rites were administered "*per Graecas sacerdotes et Graeca omnia nominata.*"

§. 22. **commissum.** "an offence against the *sacra*" cp. §§. 20, 37. Turneb. quotes Varro (*L. L.* VI. XXX. 21.) "*Praetor qui tum fatus est, si imprudens*

poterit, impie commissum esto: quod expiari poterit, publici sacerdotes expianto.

Loedis publicis, quod sine curriculo et sine certatione corporum fiat, popularem laetitiam in cantu et fidibus et tibiis moderanto eamque cum divum honore iungunto.

Ex patriis ritibus optuma colunto.

Praeter Idaeae matris famulos eosque iustis diebus ne quis stipem cogito.

Sacrum sacrove commendatum qui clepsit rapsitve parricida esto.

Periurii poena divina exitium, humana dedecus.

Incestum pontifices supremo subplicio sanciunto.

Impius ne audeto placare donis iram deorum.

Caute vota reddunto. Poena violati iuris esto:

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fecit, piaculari hostia facta piatur: si prudens dixit, Q. Mucius ambigebat eum expiari ut **impium** *non posse.*" cp. Macrob. *Saturn.* I. 16.

Loedis. For this form Halm quotes Corssen (über Aussprache, Vocalismus &c. I. 195.). cp. III. §. 9. *oenus.*

quod sine cet. "As to so much as is performed without &c." viz. the *ludi scenici.* Judging from §. 38. one would expect some reference to the *ludi circenses* also; hence various emendations have been suggested without success. Halm thinks that *sive—sive* passed into *sine—sine;* and that, subsequently, the passage was marred by interpolation.

in cantu. Halm would omit **in,** making *cantu* &c. depend upon *moderanto.* For **eamque** Vahlen reads **easque.**

famulos. viz. the Galli, at the Megalensia: cp. Lucret. II. 626. foll. **eosque** = καὶ τούτους "and they too."

commendatum. Valuables were often entrusted to the safekeeping of a temple. cp. §. 41.

clepsit rapsitve. The former (κλέπτειν) denotes secret, the latter open and violent sacrilege, Wyttenbach. MSS. have **cleperit**; but Madvig objects (*de Finn.* V. XXV. 74.) that Cicero would then have used *rapuerit* not *rapsit,* for the sake of uniformity.

parricida. "be as a parricide:" Turneb. quotes "*Si qui hominem liberum dolo sciens morti duit, parricidas esto.*" *Lex Numae ap. Festum.* cp. Plato, *Legg.* IX. 854. E. where sacrilege and parricide come under the same law.

periurii. cp. §. 19. Tacit. *Ann.* I. 73. "*deorum iniuriae dis curae.*

violati iuris. = "*violatae religionis.*" §. 41.

[quocirca] ne quis agrum consecrato. Auri, argenti, eboris sacrandi modus esto.

Sacra privata perpetua manento.

Deorum Manium iura sancta sunto. Bonos leto datos divos habento: sumptum in ollos luctumque minuunto.

X. 23. *Q.* Conclusa quidem est a te, frater, magna lex sane quam brevi, set, ut mihi quidem videtur, non multum discrepat ista constitutio religionum a legibus Numae nostrisque moribus. *M.* An censes, quom in illis de re publica libris persuadere videatur Africanus, omnium rerum publicarum nostram veterem illam fuisse optumam, non necesse esse optumae rei publicae leges dare consentaneas? *Q.* Immo prosus ita censeo. *M.* Ergo adeo exspectate leges, quae genus illud optumum rei publicae contineant, et, si quae forte a me hodie rogabuntur, quae non sint in nostra re publica nec fuerint, tamen erunt fere in more maiorum, qui tum ut lex valebat. 24. *Att.* Suade igitur, si placet, istam ipsam legem, ut ego "**utei tu rogas**" possim dicere. *M.* Ain tandem, Attice, non es dicturus aliter? *Att.* Prosus

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quocirca. probably interpolated from §. 45. Bake. cj. *doni ergo.*

Bonos. The reviewer in Bursian's '*Jahresbericht* &c.' mentions this as an emendation of Urlichs: a comparison with §. 27. and Plato, *Rep.* VII. 540. C. had suggested the same to me independently. MSS. have **nos**, Vulg. **sos** (archaic contraction of *suos*).

§. 23. **frater.** Vahlen. MSS. **alter.** This paragraph is usually attributed to Atticus: cp. III. §. 12. In **sane quam** the intensive *sane* (I. §. I. *n.*) is strengthened by *quam*: cp. *perquam.*

Africanus. cp. I. §. 20 and *de Rep.* I. xlvi. 70.

erunt. the tense is accommodated to **rogabuntur**: the *mos maiorum*, especially in the earlier times, had all the force of written laws; and, in later times, was often sustained when it conflicted with them. (Bach, *Hist. Jurispr. Rom.*)

§. 24. **suade.** the person who spoke in favour of a law was said '*suadere legem*' cp. *Cato M.* V. 14. The *tabella* used by one voting in the affirmative was inscribed *V. R. i. e. uti rogas* (Dict. Antiq. *Comitia*).

Ain' tandem. cp. I. §. 53. *n.* **aliter** 'otherwise' *i. e.* '*nisi suaserim.*'

maiorem quidem rem nullam sciscam aliter, in minoribus, si voles, remittam hoc tibi. *Q.* Atque mea quidem *eadem* sententia est. *M.* At, ne longum fiat, videte. *Att.* Utinam quidem! quid enim agere malumus?

M. Caste iubet lex adire ad deos, animo videlicet, in quo sunt omnia. Nec tollit castimoniam corporis: sed hoc oportet intellegi, quom multum animus corpori praestet observeturque, ut casta corpora adhibeantur, multo esse in animis id servandum magis. Nam illud vel adspersione aquae vel dierum numero tollitur: animi labes nec diuturnitate evanescere nec amnibus ullis elui potest. 25. Quod autem pietatem adhiberi, opes amoveri iubet, significat probitatem gratam esse deo, sumptum esse removendum. Quid enim? paupertatem cum divitiis etiam inter homines esse aequalem velimus, cur eam sumptu ad sacra addito deorum aditu arceamus? praesertim cum ipsi deo nihil minus gratum futurum sit quam non omnibus patere ad se placandum et colendum viam. Quod autem non iudex, sed deus ipse vindex constituitur, praesentis poenae metu religio confirmari videtur. Suosque deos aut novos aut alienigenas coli

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remittam hoc. *i. e.* "*istum suadendi laborem.*" Turneb.

eadem. Madvig. omitted in MSS.

observetur—servandum. The simple and compound forms of this verb are often used in the same sense. It has been remarked (Paley, *ad* Eurip. *Bacch.* v. 1065) that where there is a repetition of the verb, in Greek, the simple form is often substituted.

illud. "impurity of body," understood from **casta corpora.** Bake compares *Brut.* XXXIV. 130. MSS. insert *incestum* after *illud.*

numero. *i. e.* a fixed number: so, under the Mosaic law, persons were "unclean" for so many days.

amnibus. MSS. have **a manibus.** Bake quotes Æschyl. *Choeph.* 520. *τὰ πάντα γάρ τις ἐκχέας ἀνθ' αἵματος* 'Ενὸς, *μάτην ὁ μόχθος.* cp. Shaksp., *Macbeth. Act.* II. *sc.* 2.

§. 25. **Quid enim.** Madvig prefers **qui enim—velimus**; Klotz **quum divitiis**, which certainly prevents confusion with the preposition. Feldh. compares I. §. 51. and *ad Fam.* II. xviii. 3.

praesentis. since a man might have hoped to deceive the *Iudex.* Turneb.

confusionem habet religionum et ignotas caerimonias nostris sacerdotibus. **26.** Nam a patribus acceptos deos ita placet coli, si huic legi paruerint ipsi patres.

Delubra esse in urbibus censeo, nec sequor magos Persarum, quibus auctoribus Xerxes inflammasse templa Graeciae dicitur, quod parietibus includerent deos, quibus omnia deberent esse patentia ac libera quorumque hic mundus omnis templum esset et domus. XI. Melius Graeci atque nostri, qui ut augerent pietatem in deos, easdem illos urbes quas nos incolere voluerunt; adfert enim haec opinio religionem utilem civitatibus: si quidem et illud bene dictum est a Pythagora, doctissimo viro, tum maxume et pietatem et religionem versari in animis, cum rebus divinis operam daremus, et quod Thales, qui sapientissimus in septem fuit, homines existimare oportere omnia *quae* cernerent deorum esse plena; fore enim omnis castiores, veluti quom in fanis essent maxime religiosis. Est enim quaedam opinione

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nostris. Davies. MSS. have **nos.** cp. §. 20. "*discunto ignari a publicis sacerdotibus.*" Tacitus (*Hist.* I. 22.) speaks of the ineffectual attempts to expel strange superstitions from Rome.

§. 26. **Nam a patribus.** Mommsen prefers **Iam**; but **nam** is regular in parenthesis. Vahlen compares I. §. 7.

ita—si. "only under the condition that" (Madvig, *L. G.* 442. a.): the reference is to §. 19. '*quos rite* &c.'

patres. Halm thinks *patres* a gloss to explain *ipsi.* MSS. have *patre* or *patrum*; Feldh. conjectures *Oportere delubra* &c.

dicitur. Herodot. VIII. 109. cp. Æschyl. *Pers.* 809. Turneb.

Pythagera. *καὶ ὅλως ἀποδείκνυσι τοῦ πυθαγόρου λόγον φλύαρον, εἰπόντος, ὅτι βέλτιστοι γινόμεθα πρὸς τοὺς θεοὺς βαδίζοντές.* Plutarch (*de Superst.* IX. 169.). Turneb.

quod Thales. supply *dixit.* Bake thinks that this mention of Thales is an interpolation: certainly **qui s. in s. fuit** reads like a gloss. cp. *Acad.* II. 37. "*Thales, unus e septem, cui sex reliquos concessisse primas ferunt.*" Davies quotes Aristot. *de Anima* I. v. 17. *Θαλῆς ᾠήθη πάντα πλήρη θεῶν εἶναι.* (Preller, *Hist. Phil.* §. 16).

quae cernerent. Manutius. **omnia cerneret** MSS. **omnia quae cernerentur.** Ernesti. For **veluti quom** MSS. have **veluti quo**: Lambin. veluti qui.

opinione. cp. δόξᾳ. "For there is, men imagine, something of Divinity to be perceived by the eye as well as by the mind."

species deorum in oculis, non solum in mentibus. **27.** Eandemque rationem luci habent in agris. Neque ea, quae a maioribus prodita est cum dominis tum famulis, posita in fundi villaeque conspectu religio Larum repudianda est. Iam ritus familiae patrumque servare id est, quoniam antiquitas proxume accedit ad deos, a dis quasi traditam religionem tueri. Quod autem ex hominum genere consecratos, sicut Herculem et ceteros, coli lex iubet, indicat omnium quidem animos inmortalis esse, sed fortium bonorumque divinos. **28.** Bene vero, quod Mens, Pietas, Virtus, Fides consecratur manu: quarum omnium Romae dedicata publice templa sunt: ut illa qui habeant—habent autem omnes boni—deos ipsos in animis suis conlocatos putent. Nam illud vitiosum Athenis quod, Cylonio scelere expiato, Epimenide Crete suadente fecerunt Contumeliae fanum et Inpudentiae; virtutes enim, non vitia consecrare decet. Araque vetusta in Palatio Febris et altera Esquiliis Malae

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§. 27. **Larum.** MSS. **Parum.** The Lares were properly the tutelary gods of the house, Lares *Familiares;* but there were also Lares *Publici*, *e.g. Rurales*, *Compitales*, (Dict. Antiq. *Compitalia*).

antiquitas. cp. Plato, *Phileb.* 16. C. *Legg.* 948. B. Aristotle thinks otherwise: *εἰκὸς τε τοὺς πρώτους, εἴτε γηγενεῖς ἦσαν εἴτ' ἐκ φθορᾶς τινὸς ἐσώθησαν, ὁμοίους εἶναι καὶ τοὺς τυχόντας καὶ τοὺς ἀνοήτους—ὥστ' ἄτοπον τὸ μένειν ἐν τοῖς τούτων δόγμασιν* (*Polit.* II. 8.).

§. 28. **manu.** Feldh. **humana.** "*manu i. e. hominis opere, signis et delubris, non solum mente et animo* (cp. *de Nat. Deor.* II. 60, 151. *de Off.* II. 3, 13.)" Vahlen.

Romae. cp. Livy, XXII. 10. "**Menti** *aedem T. Otacilius Praetor vovit*" (*U. C.* 537). Marius dedicated a temple "**Honoris—Virtutis**" on the Capitoline and Marcellus *ad portam Capenam:* cp. *pro Sestio* LIV. 116.; Livy, XXV. 40. **Fides:** "*Ut Fides ut Mens, quas in Capitolio dedicatas videmus proxime a M. Æmilio Scauro.*" *de N. D.* II. xxiii. 61.

Cylonio. "the sin in the matter of Cylon." *τὸ Κυλώνειον ἄγος.* Ursin. See Thucyd. I. 126.; Herod. V. 71.; Plato, *Legg.* I. 642. D.

vetusta. Madvig. MSS. have **vetustin** corrected **vetusstat**. cp. *de N. D.* III. 25. "**Febris** *enim fanum in Palatio et Orbonae ad aedem Larum et aram* **Malae Fortunae** *Esquiliis consecratam videmus.*"

Fortunae detestataque omnia eius modi repudianda sunt. Quod si fingenda nomina, Vicaepotae potius [vincendi] atque [potiundi] Statae [standi] cognominaque Statoris et Invicti Iovis rerumque expetendarum nomina, Salutis, Honoris, Opis, Victoriae. Quoniamque exspectatione rerum bonarum erigitur animus, recte etiam Spes a Calatino consecrata est. Fortunaque sit vel Huiusce diei—nam valet in omnes dies—vel Respiciens ad opem ferendam, vel Fors, in quo incerti casus significantur magis, vel Primigenia a gignendo, comes tum * * *

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detestataque. MSS. **detestatque.** Halm **detestanda atque.** Feldh. defends the text, against Madvig's objection (that it would be stupid to say "*detestata omnia esse repudianda*," as if one would not reject that which he abominated), remarking that these abominations had not been rejected, seeing that they were consecrated.

Vicaepotae potius. supply *fingatur nomen.* Görenz would reject the gerunds as manifest comments. cp. Livy, II. 7. "*infra Veliam ubi nunc Vicaepotae est.*" Festus "**Statae Matris** *in Foro colebatur.*" Cic. *Catil.* II. xiii. 33. Ovid, *Fast.* VI. 650.

Salutis. "viz. or *e.g.* Salus &c." (See Madvig, *L. G.* §. 435.). The temple of Salus was on the Quirinal: that of Ops (used by Caesar as a public treasury, *Philipp.* II. xxxvii. 93.) on the Capitol: there was a temple of Victory on the Palatine, Livy, XXIX. 14.

Calatino. Aulus Atilius Calatinus (Cos. *U. C.* 496.) cp. Tacit. *Ann.* II. 49., Cic. *N. D.* II. xxiii. 61.

Huiusce. Plutarch (Marius, XXVI. 3.) tells us that Catulus vowed a temple to Fortuna, under this name, on the day on which he and Marius defeated the Cimbri (*U. C.* 653.). On the countless and fanciful appellations of this goddess cp. Plutarch (*de Fortuna Rom.* X. 322), Tacit. *Ann.* III. 71.

nam valet. "*fortunae potestas.*" Turneb. Scheffer, however, makes "*hoc cognomentum*" the subject; because each day, in its turn, becomes to-day.

Respiciens. "*Respicientis F. aedes Romae fuit iuxta templum Jovis Victoris.*" Turneb.

Fors. A temple was erected for Fors Fortuna by Carvilius (Cos. *U. C.* 461.) in the Janiculum (Livy X. 46.). Ovid, *F.* VI. 775. plays upon the word as if equivalent to *fortis*, with which Lobeck identifies it; Paley, in his note on this passage, thinks it a derivative of *Vorts*, cp. Vertumnus. (Curtius, *Gk. Etymol.* refers *fors* and *fortuna* to the same root as *fero.*)

Primigenia. Vahlen accepts the explanation and reading of Turnebus: **Primigenia, a gignendo Comes. Tum feriarum.** "*i. e. quae nos a primo ortu comitatur;*" but most Editors assume a gap, taking *comes* to be an appellation of Fortuna. There was a temple of F. Primigenia on the Quirinal (Livy, XXXIV. 53.).

XII. 29. Feriarum festorumque dierum ratio in liberis requietem litium habet et iurgiorum, in servis operum et laborum: quas compositio anni conferre debet ad perfectionem operum rusticorum. Quod tempus ut sacrificiorum libamenta serventur fetusque pecorum, quae dicta in lege sunt, diligenter habenda ratio intercalandi est: quod institutum perite a Numa posteriorum pontificum neglegentia dissolutum est. Iam illud ex institutis pontificum et haruspicum non mutandum est, quibus hostiis immolandum quoique deo, cui maioribus, cui lactentibus, cui maribus, cui feminis. Plures autem deorum omnium, singuli singulorum sacerdotes et respondendi iuris et confitendarum religionum facultatem adferunt. Cumque Vesta quasi focum urbis, ut Graeco nomine est appellata, quod nos prope idem Graecum, *non* interpretatum nomen

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§. 29. **compositio.** *v. l.* **compositor** §. 19. *n.*

Quod tempus. cp. §. 20. Moser explains "*Quod ad tempus attinet*;" Feld. conj. **adque tempus ut,** remarking that '*ad tempus*' is used "*pro* **statuto tempore,** *ad Attic.* XIII. xlv. 2." Halm adopts Klotz's conj. **Quod** *ad* **tempus.** I am inclined to think that **Quod tempus** *et* **ut sacrif. cet.** would satisfy the sense, with least change: "and that this time (*perfectio operum*) and that the offerings &c. may be observed &c." A proper system of intercalation will conduce equally to the coincidence of the Feasts with the completion of the particular farming operations which they crown, and to the facility of providing proper offerings for particular occasions.

intercalandi. Before the year of confusion (B. C. 46.) in which Julius Cæsar reformed the Calendar, an intercalary month, alternately of 22 and 23 days, was inserted every two years; in order that the lunar might correspond with the solar year. The Pontifices, however, would seem to have frequently adopted a very arbitrary form of intercalation. (Dict. Antiq. *Kalendarium.*)

confitendarum. Gesner and Vahlen explain as *profitendarum. i. e.* "declaring what rites are to be observed." Of the many emendations proposed, Halm prefers **conficiendarum**; "*conficere religiones,*" he says, is "*die heiligen Handlungen ausrichten, vollziehen,*" "to perform the religious ceremonies:" Lipsius **cum fide tuendarum**: Bake **continendarum.**

non interpretatum. *i. e.* Ἑστία has merely been altered into Vesta. (In reality, both spring from rt. *Vas* 'burn:' cp. *uro.* Curtius, *Gk. Et.*). As the best MSS. omit **non,** Davies thinks that the words *Gr. interp. nomen* have crept into the text from a marginal jotting.

tenemus, conplexa sit, ei colendae virgines praesint, ut advigiletur facilius ad custodiam ignis et sentiant mulieres naturam feminarum omnem castitatem pati.

30. Quod sequitur vero, non solum ad religionem pertinet, sed etiam ad civitatis statum, ut sine iis, qui sacris publice praesint, religioni privatae satis facere non possint. Continet enim rem publicam consilio et auctoritate optimatium semper populum indigere. Discriptioque sacerdotum nullum iustae religionis genus praetermittit. Nam sunt ad placandos deos alii constituti, qui sacris praesint sollemnibus, ad interpretanda alii praedicta vatium, neque multorum, ne esset infinitum, neque ut ea ipsa, quae suscepta publice essent, quisquam extra conlegium nosset. 31. Maximum autem et praestantissimum in re publica ius est augurum cum auctoritate coniunctum. Neque vero hoc, quia sum ipse augur, ita sentio, sed quia sic existimare nos est necesse. Quid enim maius est, si de iure quaerimus,

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facilius. Married women would not so readily spare the time from their domestic duties.

naturam. Lipsius. "*i. e. mulieres exercere posse omnis generis castitatem.*" MSS. have **innaturam** Feldh. comp. §. 35., where one MS. has **inmulierum**: an alteration due, he thinks, to the fact that the copyist thought such things "*a feminarum natura aliena.*" Manutius conjectures '**in natura—peti.**' Lambin **a natura—peti.**

§. 30. **continet.** "holds together," "tends to preserve." cp. Aristot. *Polit.* II. 9. συνέχει τὴν πολιτείαν τὸ ἀρχεῖον τοῦτο. The subject of **continet** is the sentence "*consilio—indigere.*" Here **populus** = *plebs.*

discriptioque. Halm. "classification" §. 20. Vahlen prefers *descriptio* = "regulation, constitution." (See III. §. 7. *n.*).

neque multorum. *sc. vatium. i. e.* only those "*quorum* (*effata*) *S. P. Q. adsciverit.*" §. 20. "*Sibyllarum autem oracula, non aliorum vatum effata a Quindecemviris et custodita et consulta esse constat.*" Feldh.

§. 31. **cum auctoritate.** "*i. e. illud, quod cum aug. auct.*" Mr. Because A has **quom**, Halm prefers **quoniam auctoritati est**; but Vahlen remarks that the preposition is often written *quom* in these MSS.

ipse. Cicero was elected (B. C. 53.) in the room of M. Crassus, cp. *Philipp.* II. ii. 4. "*Me Augurem a toto collegio expetitum Cn. Pompeius et Q. Hortensius nominaverunt.*"

quam posse a summis imperiis et summis potestatibus comitiatus et concilia vel instituta dimittere vel habita rescindere? quid gravius quam rem susceptam dirimi, si unus augur **alio die** dixerit? quid magnificentius quam posse decernere, ut magistratu se abdicent consules? quid religiosius quam cum populo, cum plebe agendi ius aut dare aut non dare? quid? legem, si non iure rogata est, tollere? ut Titiam decreto conlegi, ut Livias consilio Philippi, consulis et auguris: nihil domi, nihil militiae per magistratus gestum sine eorum auctoritate posse cuiquam probari?

XIII. 32. *Att.* Age, iam ista video fateorque esse magna, set est in conlegio vestro inter Marcellum et Appium, optimos augures, magna dissensio — nam eorum ego in libros incidi—, cum alteri placeat auspicia ista ad utilitatem esse rei publicae composita, alteri disciplina vestra quasi divinare videantur posse. Hac tu de re quaero quid sentias. *M.* Egone? divinatio-

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imperiis—potest. "the highest military and civil authorities:" abstract for concr.

concilia. Turneb. quotes Laelius Felix (*ap. Gell.* xv. 27.). "*Is qui non universum populum, sed partem aliquam adesse iubet, non comitia, sed concilium edicere debet.*" Hence the *comitia tributa* were frequently styled *concilia plebis.* (Dict. Antiq. *concilium.*).

alio die. "adjourn:" the words with which the Augur put off an assembly, if he considered the auspices unfavourable. MSS. omit **die.** cp. *Philipp.* II. xxxiii. 83.

abdicent. Turneb. quotes *de N. D.* II. iv., where the Coss. Nasica and Figulus being declared to have been '*vitio creati*' (*U. C.* 592.) resigned.

Philippi. L. Marcius Philippus (cos. *U. C.* 663.). cp. §. 14. *n.*

§. 32. **Marcellum.** C. Claudius Marcellus (Propraetor in Sicily *U. C.* 676.). Appius Claudius Pulcher (cos. *U. C.* 700.) wrote a treatise on Augury, which he dedicated to Cicero. *ad Famil.* III. 4. cp. II. *de Divin.* XXXV. 75. "*Assentior C. Marcello potius, quam App. Claudio; qui ambo mei collegae fuerunt; existimoque ius augurum, etsi divinationis opinione principio constitutum sit, tamen postea reipublicae caussa conservatum ac retentum.*"

videantur. Vahlen, after MSS. Halm **divinari videatur.** Feldh. **divinare videatur**, making *disciplina* the subject.

nem, quam Graeci μαντικὴν appellant, esse sentio et huius hanc ipsam partem, quae est in avibus ceterisque signis, †quod disciplinae nostrae. Si enim deos esse concedimus eorumque mente mundum regi et eosdem hominum consulere generi et posse nobis signa rerum futurarum ostendere, non video cur esse divinationem negem. 33. Sunt autem ea, quae posui, ex quibus id quod volumus efficitur et cogitur. Iam vero permultorum exemplorum et nostra est plena res publica et omnia regna omnesque populi cunctaeque gentes, augurum praedictis multa incredibiliter vera cecidisse; neque enim Polyidi neque Melampodis neque Mopsi neque Amphiarai neque Calchantis neque Heleni tantum nomen fuisset, neque tot nationes id ad hoc tempus retinuissent, *Arabum*, Phrygum, Lycaonum, Cilicum

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signis, quod. Vahlen assumes that **quod** or **que** crept into MSS. owing to a mistaken repetition of *que* with *signis*. Halm conjectures **signis, convenire disciplinae.** According to Vahlen if we omit *quod*, nothing is wanting in this passage: Cicero believes in the existence of divination in general, and of that kind in particular, which belongs to the science of the Augurs.

Si enim deos. Madvig. from MSS. **summos**; which he assumes to have arisen from the *compendia* **si. n. dos.** In the *de Divin.* II. iii. 8. Cicero asserts his unbelief in divination: Görenz attributes this inconsistency to his having latterly migrated from the Old to the New Academy, cp. *Acad.* I. iv. 13.; however, as Wyttenbach reminds us, Cicero is here arguing from Stoic premises, whereas in the *de Divin.* (*l. c.*) he sets himself to refute them: cp. I. §. 39.

et eosdem. Davies: cp. II. §. 15. **eorumdem** MSS., whence Schoemann conjectures **et eorum numen.**

§. 33. **augurum.** Rath conjectures **ex augurum**: an easy remedy, since **ex** would readily be absorbed by the final **es** of **gentes.** Feldh. explains **praedictis** as an ablative of measure = "*si ad augurum praedicta direxeris.*"

Polyidi. Polyidus of Corinth (Homer, *Il.* XIII. 666.; *de Divin.* I. XL. 89.).; Μελάμπους ὁ 'Αμυθέωνος a pupil of Cadmus (Hdt. II. 49.); **Mopsus** king of Argos "*rex idem et augur*;" **Calchas** and **Helenus** celebrated by Homer and Virgil (*de N. D.* II. iii. 7.).

Arabum. MSS. have **apparigum,** or something like it; whence *Arabum* has been conjectured, cp. *de Divin.* I. XLI. 92. Vahlen prefers **ut Phrygum.**

maximeque Pisidarum, nisi vetustas ea certa esse docuisset. Nec vero Romulus noster auspicato urbem condidisset, neque Atti Navi nomen memoria floreret tam diu, nisi omnes ii multa ad veritatem admirabilia dixissent. Sed dubium non est quin haec disciplina et ars augurum evanuerit iam et vetustate et neglegentia. Ita neque illi adsentior, qui hanc scientiam negat umquam in nostro collegio fuisse, neque illi, qui esse etiam nunc putat: quae mihi videtur apud maiores fuisse duplex, ut ad rei publicae tempus non numquam, ad agendi consilium saepissime pertineret. 34. *Att.* Credo hercle ita esse istique rationi potissimum adsentior; sed redde cetera.

XIV. *M.* Reddam vero et id, si potero, brevi. Sequitur enim de iure belli: in quo et suscipiendo et gerendo et deponendo ius ut plurimum valeret et fides eorumque ut publici interpretes essent, lege sanximus. Iam de aruspicum religione, de expiationibus et procurationibus sat esse plane in ipsa lege dictum puto. *Att.* Adsentior, quoniam omnis haec in religione versatur oratio. *M.* At vero quod sequitur quo modo aut tu adsentiare aut ego reprehendam sane quaero, Tite.

Atti Navi. Livy, I. 36. With **ad veritatem** cp. *Catil.* I. v. 12. "*ad severitatem lenius.*"

illi. Marcellus and Appius, §. 32.

tempus. "*exigences of state,*" "the times;" **agendi c.** "advice in the conduct of affairs." Cicero praises or blames the former application, as it suits him, cp. *in Pison.* IV. 9. with II. *Philipp.* xxxviii. 99.

§. 34. **redde.** "*i. e. expone quae promisisti.*" cp. ἀποδοῦναι Bake. *reddo* like ἀποδίδωμι frequently signifies the completion of an undertaking; the thing undertaken being regarded as a debt to be discharged: cp. III. §. 13.

sat esse plane. Haupt. MSS. have **satisse illane.** Feldh. conjectures *satis esse iam.*

quoniam. Atticus, as an Epicurean, views these matters with indifference, cp. I. §. 21.

reprehendam. "*i. e. retractem, corrigam.*" Wyttenbach. For this meaning of *reprehendere* "take in hand again," Bake compares *Verr.* III. xx. 51.

Att. Quid tandem id est? 35. *M.* De nocturnis sacrificiis mulierum. *Att.* Ego vero adsentior, excepto praesertim in ipsa lege sollemni sacrificio ac publico. *M.* Quid ergo aget Iacchus Eumolpidaeque nostri et augusta illa mysteria, si quidem sacra nocturna tollimus? Non enim populo Romano, sed omnibus bonis firmisque populis leges damus. 36. *Att.* Excipis, credo, illa, quibus ipsi initiati sumus. *M.* Ego vero excipiam. Nam mihi cum multa eximia divinaque videntur Athenae tuae peperisse atque in vitam hominum attulisse, tum nihil melius illis mysteriis, quibus ex agresti immanique vita exculti ad humanitatem et mitigati sumus, initiaque ut appellantur, ita re vera principia vitae cognovimus; neque solum cum laetitia vivendi rationem accepimus, sed etiam cum spe meliore moriendi. Quid autem mihi displiceat in nocturnis, poetae indicant comici. Qua licentia Romae data quidnam egisset ille, qui in sacri-

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§. 35. **excepto.** sc. "*Bonae Deae quod pro populo fiebat a Vestalibus noctu.*" Turneb.

Iacchus. Ἴακχος son of Δημήτηρ, with whose worship he was associated in the Eleusinian mysteries: he is usually confounded with Διόνυσος (*de N. D.* II. 24.). Mitchell, in his introduction to the Frogs of Aristophanes, ably discriminates between the "chaste mysteries" of the Iacchic worship and the wild riot of Dionysiac orgies.

Eumolpidaeque nostri. The priests of Δημήτηρ at Eleusis. Some would read **vestri** or **vestri** referring to Atticus; but Marcus himself would seem to have been one of the initiated, Turneb. quotes *Tuscul.* I. xiii. 29.

§. 36. **excipiam.** Ernesti would read **excipiam?** *i. e.* "Am I indeed to exempt them?" because they do not seem to have been exempted: in fact a compromise is indicated in §. 37.

ex agresti. Wyttenbach thinks this an imitation of Isocrates (Δήμητρος) *δούσης—δωρέας διττὰς αἵπερ μέγισται τυγχάνουσιν οὖσαι—τούς τε καρποὺς, οἳ τοῦ μὴ θηριωδῶς ζῆν ἡμᾶς αἴτιοι γεγόνασι, καὶ τὴν τελετὴν, ἧς οἱ μετασχόντες περί τε τῆς τοῦ βίου τελευτῆς καὶ τοῦ σύμπαντος αἰῶνος ἡδίους τὰς ἐλπίδας ἔχουσιν.* (*Paneg.* VI. 28.).

comici. Turneb. cites Plaut. *Aulul.* (*Prol.* 35.). "*qui illam stupravit noctu Cereris vigiliis.*"

ille. Clodius, who intruded his *deliberate* lust into religious rites

ficium cogitatam libidinem intulit, quo ne inprudentiam quidem oculorum adici fas fuit? *Att.* Tu vero istam Romae legem rogato: nobis nostras ne ademeris.

XV. 37. *M.* Ad nostra igitur revertor: quibus profecto diligentissime sanciendum est, ut mulierum famam multorum oculis lux clara custodiat, initienturque eo ritu Cereri quo Romae initiantur. Quo in genere severitatem maiorum senatus vetus auctoritas de Bacchanalibus et consulum exercitu adhibito quaestio animadversioque declarat. Atque omnia nocturna, ne nos duriores forte videamur, in media Graecia Diagondas Thebanus lege perpetua sustulit. Novos vero deos et in his colendis nocturnas pervigilationes sic Aristophanes, facetissimus poeta veteris comoediae, vexat, ut apud eum Sabazius et quidam alii dei peregrini iudicati e civitate eiciantur. Publicus autem sacerdos inpru-

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(the mysteries of the **Bona Dea**, at Caesar's house), at which not even an *involuntary* glance might lawfully be cast." cp. *ad Attic.* I. xiii. 3., *de Harusp. respons.* V. 8.

§. 37. **nostra.** Görenz **nostras**; but, as Bake suggests, Cicero alludes to the provisions of his own law §. 21.

eo ritu. "*interdiu, non ut Athenis, noctu.*" Turnebus.

Bacchanalibus. A bronze tablet containing this decree, is said to be preserved in the Imperial Library at Vienna: the text is to be found in the Appendix to White and Riddle's Lexicon, and in most specimens of Latin Inscriptions. For an account of the circumstances under which it was passed, See Livy, XXXIX. 9—20.

consulum. Sp. Postumius Albinus and Q. Marcius Philippus (*U. C.* 568.). As Livy makes no mention of the employment of the army in suppressing the orgies, Davies conjectures **consulibus exercita et habita quaestio**; but, as Feldhügel observes, a conspiracy embracing more than 7,000 persons, with its branches spreading over Italy, could not have been exstirpated by the ordinary officers of justice alone.

Diagondas. unknown: Meurse conj. Pagondas, cp. Thucyd. IV. 91., where a Boeotarch of that name is mentioned.

perpetua. "universal, without exception." Turneb. "a law for ever;" opp. to one for a fixed term. Feldh.

Sabazius. The Phrygian Dionysus. cp. Demosth. *de cor.* §. 324. Cicero is supposed to allude to the *Lemniae*, a play no longer extant.

dentiam consilio expiatam metu liberet, audaciam† in admittendis religionibus foedis damnet atque impiam iudicet.

38. Iam ludi publici quoniam sunt cavea circoque divisis: corporum certatione cursu et pugillatu et luctatione curriculisque equorum usque ad certam victoriam circo constitutis; cavea cantu videat fidibus et tibiis, dum modo ea moderata sint, ut lege praescribitur. Adsentior enim Platoni nihil tam facile in animos teneros atque molles influere quam varios canendi sonos, quorum dici vix potest quanta sit vis in utramque partem. Namque et incitat languentes et languefacit excitatos et tum remittit animos, tum con-

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consilio. opp. to **inprudentiam.** "unintentional sin—deliberate atonement."

in admittendis. inferior MSS. The best MSS. have: A. **inet inmitendas religionibus foedas.** B. **audacia in &c. inmittendis.** Possibly, the original may have been **audaciam in eo damnet cet.**; with an explanation of **eo** superscribed (*committendis religionibus*; **c** and final **s** resembling **t** and **f**, **m** indicated by a dash); this explanation slipping down into the text, we have *religionibuf co dānet* and, subsequently, *feoda &c.* Feldhügel defends the text.

§. 38. **divisis—tibiis.** So emended by Vahlen. MSS. have **divisi sint** (A. **i sint** '*in rasura*'), A.B. **certationes—pugilla** (tio superscribed) **veluctatione.** A.B. **vice ac.** H. **viceat.**

Madvig proposed **divisi sint—certationi—in circo constituti: in cavea cantui voce ac.**

Translation.—"Now since there are public amusements, the theatre and the circus being separate. As athletic contests, running and boxing and wrestling and horseracing, until the decision of the contest, have been established for the circus; let the theatre (*i. e.* the spectators, cp. §. 39.) see the show (cp. *θεᾶσθαι*) with music &c." cp. Dionys. Halic. VII. 73. *οἱ τοῖς ἑαυτῶν σώμασιν ἀγωνιζόμενοι τότ' εἰσῄεσαν δρομεῖς τε καὶ πύκται καὶ παλαισταί.* Instead of **videat** I am inclined to prefer E. Hoffman's **vigeat**, which the Reviewer in Bursian's 'Jahresbericht' commends.

certam victoriam. "*sc. septem curriculis decursis ad metam*" Ernesti. cp. Propert. II. xxv. 25. "*aut prius infecto deposcit praemia cursu Septima quam metam triverit arte rota.*" This limit (**usque ad c. v.**), however, applies not only to the heats of the horse race but also to the other contests. It is, as Bake remarks, the restriction on the athletic, as '*moderata*' on the scenic contests.

Platoni. cp. *e. g.* *Repub.* IV. 424.; III. 398. **teneros atque m.** 'impressionable.' cp. I. 47. *n.*

in utr. "*sc. ad incitandum et languefaciendum.*" Turneb.

trahit, civitatumque hoc multarum in Graecia interfuit, antiquom vocum conservare modum; quarum mores lapsi ad ***mollitiam*** mollitis pariter sunt immutati cum cantibus, aut hac dulcedine corruptelaque depravati, ut quidam putant, aut, cum severitas eorum ob alia vitia cecidisset, tum fuit in auribus animisque mutatis etiam huic mutationi locus. 39. Quam ob rem ille quidem sapientissimus Graeciae vir longeque doctissimus valde hanc labem veretur; negat enim mutari posse musicas leges sine mutatione legum publicarum. Ego autem nec tam valde id timendum nec plane contemnendum puto. Illud quidem ***video,*** quae solebant quondam conpleri severitate iucunda Livianis et Naevianis modis, nunc ut eadem exsultent et cervices oculosque pariter cum modorum flexionibus torqueant. Graviter olim ista vindicabat vetus illa Graecia, longe providens quam sensim pernicies inlapsa civium ***in*** animos malis studiis malisque doctrinis repente totas civitates everteret, si quidem illa severa Lacedaemo nervos iussit, quo plures quam septem haberet, in Timothei fidibus incidi.

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mollitis. restored by Vahlen from MSS.; others alter into **mollitias**; but it is more likely that *mollitiam* was omitted before *mollitis* than that such an unmeaning corruption should have taken place.

§. 39. **mutatione.** Plato (Rep. IV. 424. C.) *οὐδαμοῦ γὰρ κινοῦνται μουσικῆς τρόποι ἄνευ πολιτικῶν νόμων τῶν μεγίστων.*

video. added by Vahlen: the compendium of **quidem** would readily absorb **video.** Others read **illa** for **illud** (**illa** *sc.* '*theatra*' (= *spectatores*) Wyttenb., '*cantica.*' Feldhüg.); but this requires **exsultant—torquent**; were it not for these conjunctives I should prefer to translate **illud quidem**: "That remarkable fact, for example," cp. *τοῦτο μέν.*

Livianis. Livius Andronicus (date of first play *U. C.* 514.). Cn. Naevius (died about *U. C.* 550) wrote a poem on the first Punic war.

in animos. Goerenz. MSS. omit **in**: cp. Plato (*l. c.*). *κατὰ σμικρὸν εἰσοικισαμένη ἠρέμα ὑπορρεῖ πρὸς τὰ ἤθη τε καὶ τὰ ἐπιτηδεύματα—ἕως ἂν τελευτῶσα πάντα ἰδίᾳ καὶ δημοσίᾳ ἀνατρέψῃ.*

quo plures. Davies conj. **quos plures.** Feldhüg., after Madvig, explains **quo** as an ablative of measure; *i. e.* "*quo plures nervos quam septem haberet, id in Timothei fidibus incidi iussit.*" cp. *ad Att.* XVI. i. 5. "*quo plus permutasti quam ad fructum insularum,* id *ille annus habeat.*"

XVI. **40.** Deinceps in lege est, ut de ritibus patriis colantur optumi: de quo cum consulerent Athenienses Apollinem Pythium, quas potissimum religiones tenerent, oraclum editum est: 'eas quae essent in more maiorum.' Quo cum iterum venissent maiorumque morem dixissent saepe esse mutatum quaesissentque, quem morem potissimum sequerentur e variis, respondit: 'optumum.' Et profecto ita est, ut id habendum sit antiquissimum et deo proximum, quod sit optumum. Stipem sustulimus nisi eam, quam ad paucos dies propriam Idaeae Matris excepimus; implet enim superstitione animos et exhaurit domus.

Sacrilego poena est, neque ei soli, qui sacrum abstulerit, sed etiam ei, qui sacro commendatum. **41.** Quod et nunc multis fit in fanis, et Alexander in Cilicia deposuisse apud Solensis in delubro pecuniam dicitur et Atheniensis Clisthenes Iunoni Samiae, civis egregius, cum rebus timeret suis, filiarum dotis credidisse.

Iam de periuriis, de incesto nihil sane hoc quidem loco disputandum est.

Donis impii ne placare audeant deos, Platonem

When Timotheus, of Miletus, in a musical contest at Sparta was playing with 11 strings: *εἷς τῶν ἐφόρων μάχαιραν λαβὼν ἠρώτησεν αὐτὸν, ἐκ ποτέρου τῶν μερῶν ἀποτέμοι τὰς πλείους τῶν ἑπτὰ χορδῶν.* (Plutarch, Lac. Inst. XVII. 238.).

§. 40. **respondit.** *sc.* ἡ Πυθία. Turneb. compares Xenophon, *M. S.* ἡ γὰρ Πυθία νόμῳ πόλεως ἀναιρεῖ ποιοῦντας εὐσεβῶς ἂν ποιεῖν.

antiquissimum. Turneb. thinks that this word has a double meaning here = "*praestantissimum*," cp. πρεσβύτατον," but cp. §. 27.

§. 41. **Solenses.** The people of Soli in Cilicia, whence σολοικισμὸς "solecism." Davies quotes Quinctil. (*Inst. Orat.* III. 6.) "*Sitne sacrilegus, qui pecuniam privatam ex templo furatus est.*" ibid IV. 2; V. 10; VII. 3.

credidisse. Madvig. **credidit sed.** MSS. The Athenian reformer Κλεισθένης, banished through Spartan intrigues (B. C. 508.) and subsequently recalled (see Herodotus V. 66. foll. and Dict. Antiq. *tribus.*), probably spent some portion of his exile at Samos.

Platonem. *παρὰ δὲ μιαροῦ δῶρα οὔτε ἄνδρα ἀγαθὸν οὔτε θεὸν ἔστι ποτὲ τό γε ὀρθὸν δέχεσθαι.* (*Legg.* IV. 716. E.).

audiant, qui vetat dubitare, qua sit mente futurus deus, cum vir nemo bonus ab improbo se donari velit.

De diligentia votorum satis in lege dictum est †ac voti sponsio, qua obligamur deo. Poena vero violatae religionis iustam recusationem non habet. Quid ego hic sceleratorum utar exemplis, quorum plenae sunt tragoediae? Quae ante oculos sunt, ea potius adtingam. Etsi haec commemoratio vereor ne supra hominis fortunam esse videatur, tamen, quoniam sermo mihi est apud vos, nihil reticebo volamque hoc, quod loquar, dis inmortalibus gratum potius videri quam grave.

XVII. 42. Omnia tum perditorum civium scelere discessu meo religionum iura polluta sunt, vexati nostri Lares familiares, in eorum sedibus exaedificatum templum Licentiae, pulsus a delubris is, qui illa servarat, circumspicite celeriter animo—nihil enim attinet quem-

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De diligentia. Bake. MSS. have **diligentiam.** Feldh. thinks **ac voti sponsio** a gloss. Halm notices an emendation by Vahlen, which the latter would seem to have since abandoned, **est autem voti sponsio:** this suggests to me the further correction **est autem votum sponsio qua;** the compendium for *autem* readily passes into *at* or *ac*, while *votū* and *voti* would easily be confounded.

iustam recusationem. "does not admit of any sufficient objection." Bake thinks that this means: "you must allow it, because it is a necessary sequel of the crime."

apud vos. an old emendation. MSS. have **apud eos,** or **apud deos,** as if the discourse on religion might be supposed to be spoken in the presence of the gods; but Turneb. cp. §. 18. "**sermo familiaris est.**"

grave. His hearers will remember that this is a friendly talk: the Gods will attribute his remarks to gratitude rather than to arrogance. Vahlen and Feldh. reject Madvig's emendation (**grave hominibus. Quum perditorum**) but explain **gratum** "pleasing" not "thankful," as I have taken it.

§. 42. **discessu meo.** euphemism for *exilio*: Clodius and others twitted him as *exsul*. cp. III. §. 25. *de domo.* XXXII.

Licentiae. cp. *de domo.* LI. After Cicero's departure into exile (*U. C.* 696); at the instigation of Clodius, his house was demolished; the lot was consecrated and an "*atrium Libertatis*," (here called *Licentiae*) erected upon it. Cicero upon his return endeavoured to get this act of consecration annulled. cp. *ad Attic.* IV. 2. (See Long, Introd. to *de domo*).

is, qui. "*se ipse dicit.*" cp. *de domo.* LV. Davies.

quam nominari—qui sint rerum exitus consecuti. Nos, qui illam custodem urbis omnibus ereptis nostris rebus ac perditis violari ab impiis passi non sumus eamque ex nostra domo in ipsius patris domum detulimus, iudicia senatus, Italiae, gentium denique omnium conservatae patriae consecuti sumus. Quo quid accidere potuit homini praeclarius? Quorum scelere religiones tum prostratae adflictaeque sunt, partim ex illis distracti ac dissipati iacent, qui vero ex iis et horum scelerum principes fuerant et praeter ceteros in omni religione inpii, non solum *nullo in* vita cruciatu atque dedecore, verum etiam sepultura et iustis exsequiarum caruerunt. 43. *Q.* Equidem ista agnosco, frater, et meritas dis gratias ago, sed nimis saepe secus aliquanto videmus evadere. *M.* Non enim, Quinte, recte existimamus, quae poena divina sit, sed opinionibus vulgi rapimur in errorem nec vera cernimus. Morte aut dolore corporis aut luctu animi aut offensione iudicii hominum miserias ponderamus, quae fateor humana esse et multis bonis viris accidisse. Sceleris est poena tristis et praeter eos eventus, qui secuntur,

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custodem. Before his departure, Cicero removed an image of Minerva from his own house to the temple of Jupiter Capitolinus: it was, forsooth, by her aid that he had crushed Catiline. cp. Plutarch, *Cicero*, XXXII. 876.; *ad Attic.* VII. *Ep.* iii. 3. Turneb.

iudicia—conservatae. For the double genitive, subjective and objective, depending on **iudicia**, Feldh. and Goerenz compare *Tuscul.* II. XV. 35; IV. xiii. 31.

distracti. torn from their friends, exiled like Gabinius.

nullo in vita cruciatu. Halm. MSS. have **vita cruciati.** Feldh. **non vitae cruciatu.** The body of P. Clodius was burnt by his followers amid a scene of the wildest disorder. See *pro Milone.* XIII. 33.

offensione. "*i. e. condemnatione* (*in iudicio*). *Sic* **offensio belli,** *pro lege Manil.* (IX. 26.), *est* **amissio victoriae.**" Turneb.

poena tristis. Bake places a comma after **poena.** *i. e.* "there is a penalty for impiety;" but Feldh. objects that it is the nature of the *poena divina* which is to be explained (Bake would omit *divina*). cp. *Off.* III. viii. 36. "*poenam, non solum dico legum, quas saepe perrumpunt, sed ipsius turpitudinis quae acerbissima est, non vident.*"

per se ipsa maxima est. Vidimus eos, qui, nisi odissent patriam, numquam inimici nobis fuissent, ardentis tum cupiditate, tum metu, tum conscientia, quid agerent modo timentis, vicissim contemnentis religiones, iudicia perrupta ab isdem [corrupta] hominum, non deorum. 44. Repriman iam *me* et non insequar longius, eoque minus, quo plus poenarum habeo quam petivi. Tantum ponam brevi, duplicem poenam esse divinam eamque constare et ex vexandis vivorum animis et ex ea fama mortuorum, ut eorum exitium et iudicio vivorum et gaudio conprobetur.

XVIII. 45. Agri autem ne consecrentur, Platoni prosus adsentior, qui, si modo interpretari potuero, his fere verbis utitur: "Terra igitur, ut focus domiciliorum, sacra deorum omnium est: quocirca ne quis iterum idem consecrato. Aurum autem et argentum in

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quid agerent. Feldh. defends this reading of MSS. against the conj. of Lambin, **quidquid agerent** (adopted by Halm and Vahlen). He gives to **timentes** the force of *dubitantes*, *i. e.* "being in fear and doubt what to do," cp. *ad Att.* XII. 24. "*Neque enim ei deesse volebam et, quid possem, timebam.*" With **quiquid agerent** "whatever they did," they comp. *in Pison.* XLI. 99. It has struck me that **quid agerent** = "fearing for their condition" *i. e.* wretchedly apprehensive of death. cp. *Epp. ad Attic.* IX. xvii. 2. "*Ad me enim ipse Tiro ita scripsit, ut* **verear, quid agat.**"

corrupta. bracketted by Halm as spurious. **et corrupta** Madvig. Ernesti remarks '**corrupta** *pecunia*, **perrupta** *vi.*' Vahlen reads **corruptela**, a conj. of Turnebus, cp. *Parad.* VI. ii. 46. The allusion is to the acquittal of Clodius, in the matter of the Bona Dea (§. 36), cp. *ad Attic.* I. xvi. 10.

§. 44. **iam me.** MSS. omit **me.** Feldh. defends the omission; he explains "*sc. res, quas Clodius vel gessit vel perpessus est.*" cp. *Philip.* II. i. "*mihi pœnarum illi plus quam optarem dederunt.*"

ponam brevi. MSS. **pœnamerebi** whence Lambin conj. **ponam brevi**; and Turneb. "**ponam erui** (*i. e. educi et colligi.*)"

divinam eamque. Halm after Madvig: MSS. have **divinam quod constaret ex—et ea fama.** Vahlen, after Görenz, reads **quod constet ex.**

ex ea fama. Davies: MSS. omit **ex.** Halm, after Lambin, changes **ea** into **ex**; Feldh defends the omission of the preposition; but, in any case, **ea** seems to be required.

§. 45. **Platoni.** *Legg.* XII. 955. E. *γῆ μὲν οὖν ἑστία τε οἰκήσεως ἱερὰ πᾶσι πάντων θεῶν.*

urbibus et privatim et in fanis invidiosa res est. Tum ebur ex inani corpore extractum haud satis castum donum deo. Iam aes atque ferrum duelli instrumenta, non fani. Ligneum autem quodcumque voluerit uno e ligno dicato, itemque lapideum in delubris communibus. Textile ne operosius quam mulieris opus menstruum. Color autem albus praecipue decorus deo est cum in ceteris, tum maxime in textili: tincta vero absint nisi a bellicis insignibus. Divinissima autem dona aves et formae ab uno pictore uno absolutae die, itemque cetera huius exempli dona sunto." Haec illi placent. Sed ego cetera non tam restricte praefinio, vel hominum vitiis vel subsidiis temporum victus: terrae cultum segniorem suspicor fore, si ad eam utendam ferroque subigendam superstitionis aliquid accesserit.

Att. Habeo ista: nunc de sacris perpetuis et de manium iure restat. *M.* O miram memoriam, Pomponi, tuam! at mihi ista exciderant. 46. *Att.* Ita credo, sed tamen hoc magis eas res et memini et exspecto, quod et ad pontificium ius et ad civile pertinent. *M.* Vero et a peritissimis sunt istis de rebus et responsa et scripta multa, et ego in hoc omni sermone nostro, quod ad cumque legis genus me disputatio nostra deduxerit, tractabo quoad potero eius ipsius generis ius civile nostrum, sed ita, locus ut ipse

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inani. 'void of life.' *ἐλέφας δὲ ἀπολελοιπότος ψυχὴν σώματος οὐκ εὐχερὲς ἀνάθημα.* cp. Ovid, *Amor.* III. ix. 6. "*Ardet in exstructo corpus* **inane** *rogo.*" Turneb.

quodcumque. MSS. **quodque.** Turneb. **quod qui.** *ξύλου δὲ μονόξυλον ὅτι ἂν ἐθέλῃ τις ἀνατιθέτω.*

subsidiis. *i.e.* such things can be more easily procured now than in Plato's time. Madvig conj. **insidiis.**

§. 46. **a peritissimis.** Madvig, approved by Halm and Vahlen. MSS. vary between **apertissimi** and **apertissima.** Bake explains **apertissima** as ironically said.

sed ita, locus. *i.e.* not going into particulars like the Jurisconsulti, "but in such a way that the general principle may be familiar &c."

notus sit, ex quo ducatur quaeque pars iuris, ut non difficile sit, qui modo ingenio possit moveri, quaecumque nova causa consultatiove acciderit, eius tenere ius, quom scias a quo sit capite repetendum. XIX. 47. Sed iuris consulti, sive erroris obiciundi causa, quo plura et difficiliora scire videantur, sive, quod similius veri est, ignoratione docendi—nam non solum scire aliquid artis est, sed quaedam ars *est* etiam docendi—saepe, quod positum est in una cognitione, id *in* infinitam dispertiuntur: velut in hoc ipso genere, quam magnum illud Scaevolae faciunt, pontifices ambo et eidem iuris peritissimi! 'Saepe,' inquit Publi filius, 'ex patre audivi pontificem bonum neminem esse nisi qui ius civile cognosset.' Totumne? quid ita? quid enim ad pontificem de iure parietum aut aquarum aut ullo omnino nisi eo, quod cum religione coniunctum est? Id autem quantulum est! de sacris, credo, de votis, de feriis et de sepulchris et si quid eius modi est. Cur igitur haec tanta facimus, cum cetera perparva sint, de sacris autem, qui locus patet latius, haec sit una sententia,

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possit moveri. "for a man of quick intelligence:" *i.e.* "*qui non plane tardo sit ingenio,*" as Vahlen takes it. cp. *Acad.* I. ix. 35., *pro Archia* VIII. 17. Halm adopts **ingenio sit mediocri**, a conj. of Davies.

quom scias. "when one knows." "The 2nd pers. of the conjunctive is used of a person whose existence is only assumed, to express by that means a single undefined subject." Madvig, *L. G.* §. 370. Vahlen quotes *de Off.* II. xi. 39.; II. xiv. 50.

§. 47. **in una cog.** "*i.e. in unius principii generalis cognitione.*" Bake. MSS. have **ars etiam** and **id infinita.** Halm conj. **infinitam.** cp. *de Orat.* II. xxxiii. 142.

in hoc ipso. "*sc. de sacris perpetuis.*" Feldh.

Scaevolae. Of this family of Jurists and Pontifices, the most famous were: Q. Mucius Scaevola, "**The Augur,**" (son in law of C. Laelius) Cos. 637.; his son Q. M. Sc. (also Augur 705); P. M. Sc., Cos. 621. (brother of P. L. Crassus Mucianus and Cousin of the Augur); his son Q. M. Scaevola Publi Filius, "**The Pontifex Maximus**" Cos. 659.

nisi eo, quod. MSS. **si ego.** Davies **omnino simili? Ergo quod.** The emendation *nisi eo* is due to Madvig.

haec sit una. Bake makes this clause (*De sacris cet.*) begin a new sentence; Feldh. thinks that it is co-ordinate with **cum cetera perparva sint.**

ut conserventur semper et deinceps familiis prodantur, et, ut in lege posui, perpetua sint [sacra]? 48. Exposite haec iura pontificum auctoritate consecuta sunt, ut ne morte patris familias sacrorum memoria occideret, iis essent ea adiuncta, ad quos eiusdem morte pecunia venerit. Hoc uno posito, quod est ad cognitionem disciplinae satis, innumerabilia nascuntur, quibus implentur iuris consultorum libri; quaeruntur enim qui adstringantur sacris. Heredum causa iustissima est; nulla est enim persona, quae ad vicem eius, qui e vita emigrarit, propius accedat. Deinde, qui morte testamentove eius tantundem capiat quantum omnes heredes. Id quoque ordine; est enim ad id, quod propositum est, adcommodatum. Tertio loco, si nemo sit heres, is, qui de bonis, quae eius fuerint, quom moritur, usu ceperit plurimum possidendo. Quarto qui, si nemo

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deinceps familiis. cp. III. §. 4. *n.* Halm thinks **sacra** a gloss.

§. 48. **exposite—venerit.** Halm and Feldh. bracket this passage as spurious. Vahlen defends it, on the ground that it is manifestly referred to in §§. 50 and 52, '**sacra cum pecunia.**' For **exposite** "in the course of interpretation" (Baiter), MSS. have **haec posite.**

quaeruntur. Halm adopts Davies' conj. **quaeritur**: Vahlen comp. I. i. 4. "*multa quaeruntur;*" *de Orat.* II. xxxii. 137.

Heredum causa. "*i. e. iustissimum est heredes astringi sacris.*" Turneb. These obligations were sometimes very burdensome: cp. Plautus, *Trinumm.* II. iv. 83. "*Cœna, hac annona, est sine sacris hereditas.*" "A dinner, these dear times, is as good as an inheritance without encumbrance." Hence the various devices for getting rid of them; cp. *pro Murena*, c. XII.

qui morte. refers to the "*donatio mortis caussa.*" Wyttenbach. A **donatio m. c.** is a gift, *in case of death*, made *e. g.* by a personon the eve of a journey or an invalid: cp. Paull. *Sent.* III. 7. Moser remarks that the *lex Voconia* (*U. C.* 585.) provided that no legatee should receive more than the *heredes*. For **propositum** Halm adopts Davies' conj. **positum.**

quom moritur. "at the time of his death." Feldh. remarks that as Cicero is speaking generally the perf. tense is not necessary.

possidendo. Acc. to Görenz, this is merely a gloss on *usu ceperit;* but Savigny compares Gaius, II. §. 41. *si tibi rem mancipi neque mancipavero neque in iure cessero, set tantum tradidero, in bonis quidem tuis ea res efficitur, ex iure Quiritium vero mea permanebit, donec tu eam* **possidendo usucapias.**

sit qui ullam rem ceperit, de creditoribus eius plurimum servet. 49. Extrema illa persona est, ut, si is, qui ei, qui mortuus sit, pecuniam debuerit, nemini eam solverit, proinde habeatur quasi eam pecuniam ceperit.

XX. Haec nos a Scaevola didicimus, non ita descripta sunt ab antiquis. Nam illi quidem his verbis docebant: tribus modis sacris adstringitur: hereditate, aut si maiorem partem pecuniae capiat, aut si maior pars pecuniae legata est, si inde quippiam ceperit. 50. Sed pontificem sequamur. Videtis igitur omnia pendere ex uno illo, quod pontifices cum pecunia sacra coniungi volunt isdemque ferias et caerimonias adscribendas putant. Atque etiam dant hoc Scaevolae, quom est partitio, ut, si in testamento deducta scripta non sit

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servet. "Saves, recovers" the debt owing to him. Turneb. observes that, at the request of creditors, the Praetor would order the effects of the defunct to be sold for their benefit: hence Savigny would omit **de**, taking this *persona* to be the purchaser of the estate, who might be said to recover the highest percentage *for the creditors:* but not for *himself* necessarily; hence this explanation has met with little favour.

§. 49. **nemini.** Halm. **nemini qui** MSS. Vahlen reads **ut is, si qui ei,—neminique.**

descripta sunt. Most Edd. omit **sunt**: Halm supplies **quae** after **Haec.**

adstringitur. Halm. MSS. have **adstringi** or **adstringit** ('*in rasura*).' Acc. to Feldh. the three modes are: (1) *hereditate;* (2) *si maiorem partem usuceperit possidendo;* (3) *si maior pars legata est* (in case the legatee has signified his acceptance of the bequest and its obligations by receiving any portion of it). He quotes *Dig. de legatis* XXXI. *tit.* I. i. 2. "*Si cui res legata fuerit et omnino aliqua ex parte voluerit suam esse, totam acquirit.*" Halm brackets *si maior—legata est.* as spurious, thus reversing the order of the 2nd and 3rd modes.

§. 50. **pontificem.** Q. Scaevola, to whom the *antiqui* are opposed. Vahlen.

isdemque. *i. e.* the persons who have received the money. Wyttenb. For **ferias** Mommsen conj. **hereditates.**

dant. "*i. e. de suo afferunt, ab antiquis non traditum*" Turneb. Lambin reads **addunt.**

quom est partitio. Davies. MSS have **quod** for **quom. Partitio**: a form of bequest, in which the *heres* shared the estate proportionally with the legatees. Davies gives an example: "*Titius mihi heres esto, et cum Seio hereditatem dividito in dimidia portione.*" Theophil. *Inst.* II. xxiii. 5. Halm thinks that '**quom—partitio**' is interpolated from §. 53.

deducta. MSS. Halm **deductio.** For the form, Vahlen comp. *offensa,*

ipsique minus ceperint, quam omnibus heredibus relinquatur, sacris ne alligentur. In donatione hoc idem secus interpretantur, et quod pater familias in eius donatione, qui in ipsius potestate est, adprobavit, ratum est: quod eo insciente factum est, si id is non adprobat, ratum non est. 51. His propositis quaestiunculae multae nascuntur, quas *quis*, qui intellegat, non, si ad caput referat, per se ipse facile perspiciat? Veluti, si minus quis cepisset, ne sacris alligaretur, ac post de eius heredibus aliquis exegisset pro sua parte id, quod ab eo, quoi ipse heres esset, praetermissum fuisset, eaque pecunia non minor esset facta cum superiore exactione, quam heredibus omnibus esset relicta, qui eam pecuniam exegisset, solum sine coheredibus sacris alligari. Quin etiam cavent, ut, cui plus legatum sit, quam sine

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repulsa, collecta. In order to escape the liability to which *partitio* might have subjected the legatee (§. 48); he was permitted, in case no such provision was made in the will, himself to allow a deduction (*e. g. C. nummi*) from his legacy; thus reducing it to less than an equal share.

in eius donatione. Wyttenbach remarks that, although a person *in potestate patris* was not competent to make a will; yet under certain conditions, with the permission of his father, he could make a *donatio mortis caussa*: he cites Gaius, *Pandect.* XVIII. i.; XXXIX. v. (See Dict. Antiq. *patria potestas*). The discrepancy appears to be that, in the case of a *testamentum*, the legatee is allowed a discretionary power of eluding the obligation of the *sacra*, thus frustrating the intention of the testator; which might be presumed from the absence of such a direction (§. 53. *cavere noluisset*). In the *donatio*, on the contrary, the intention of the *paterfamilias* (who is the real donator, his permission being indispensable) has to be carried out.

§. 51. **quas quis.** Vahlen. **quas qui** (**quasque** B.) **nascuntur intellegat.** MSS. Halm, remarking that *nascuntur* has probably ousted the real word, replaces it by *paulum*. cp. §. 46. "*qui modo cet.*" Huschke's conj. *quas qui* **unde nascuntur** *intellegat* is plausible.

quoi ipse. Vahlen after Mueller. *quoipse* MSS. *quoius ipse* Halm. Turnebus illustrates the case: A. wills $\frac{5}{12}$ of his property to his heirs, and $\frac{7}{12}$ to a legatee B; who foregoes $\frac{3}{12}$, receiving $\frac{4}{12}$. Then B dies, leaving two heirs C, D.; and D exacts his half share of the part foregone viz. $\frac{3}{24}$. This $\frac{3}{24}$ (*eaque pecunia*) along with the $\frac{4}{12}$ previously received by the father, (*cum sup. exac.*) $= \frac{11}{24}$, or more than the $\frac{5}{12}$ left to the heirs. In this case, D alone is liable.

sine religione. *i. e.* without taking the 'sacra' along with it. On **cavent** cp. I. §. 14. *n.*

religione capere liceat, is per aes et libram heredes testamenti solvat, propterea quod eo loco res est ita soluta hereditate, quasi ea pecunia legata non esset.

XXI. 52. Hoc ego loco multisque aliis quaero a vobis, Scaevolae, pontifices maximi et homines meo quidem iudicio acutissimi, quid sit quod ad ius pontificium civile appetatis; civilis enim iuris scientia pontificium quodam modo tollitis. Nam sacra cum pecunia pontificum auctoritate, nulla lege coniuncta sunt. Itaque si vos tantum modo pontifices essetis, pontificalis maneret auctoritas, sed quod idem iuris civilis estis peritissimi, hac scientia illam eluditis. Placuit P. Scaevolae et Ti. Coruncanio, pontificibus maximis, itemque ceteris, eos qui tantundem caperent, quantum omnes heredes, sacris alligari. Habeo ius pontificium. 53. Quid huc accessit ex iure civili? Partitionis caput scriptum caute, ut centum nummi deducerentur: inventa est ratio, cur pecunia sacrorum molestia liberaretur. Quid si hoc, qui testamentum faciebat, cavere noluisset? Admonet iuris consultus hic quidem ipse Mucius, pontifex idem, ut minus capiat quam omnibus heredibus relinquatur. Super dicebant

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testamenti solvat. 'acquit the heir of the charges of the will.' (for the genitive, see Key, *L. G.* §. 940.). How this was done we see §. 53. The legatee, having first secured himself by a 'stipulatio' that the amount of his legacy should subsequently be paid to him in another way, makes over his legacy by a fictitious sale: consequently, when the money is paid to the legatee, he receives it, not as a legacy but as a debt due to him by the terms of the 'stipulatio.' (Dict. Antiq. **mancipatio.**).

§. 52. **Coruncanio.** Tiberius Coruncanius (Cos. *U. C.* 474), the first Plebeian Pontifex Maximus, cp. *pro Sulla* VII. 23.; II. §. 5. *n.*

§. 53. **Partitionis caput.** "a clause on partition containing the precaution that &c." cp. §. 50.

Quid si. Huschke, adding (?) after **noluisset.** Halm *quod si.* MSS. *quid si* or *quisi.*

super dicebant. For *super* Turneb. conj. *superiores:* cp. §. 49. "*illi* (*antiqui*) *docebant cet.*" Wyttenbach, after Scheffer, explains **super:**

qui quid cepisset adstringi. Rursus sacris liberantur. Hoc vero nihil ad pontificium ius, set e medio est iure civili, ut per aes et libram heredem testamenti solvant et eodem loco res sit, quasi ea pecunia legata non esset, si is, cui legatum est, stipulatus est id ipsum, quod legatum est, ut ea pecunia ex stipulatione debeatur, sitque ea non * *

54. * * doctum hominem sane, cuius fuit Attius perfamiliaris, sed mensem, credo, extremum anni, ut veteres Februarium, sic hic Decembrem sequebatur. Hostia autem maxima parentare, pietatis esse [adiunctum] putabat.

XXII. 55. Iam tanta religio est sepulchrorum, ut extra sacra et gentem inferri fas negent esse, idque

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"more than the sum left to all the heredes." For **qui quid** Vahlen retains MSS. **quicquid**: "*i. e. si vel tantillum cepisset.*" Huschke cj. *relinquatur, quibus par dicebant qui cepisset, adstringi:...liberatur.*

stipulatus. See §. 51. note.

§. 54. The gap between **ea non** and **doctum**, which exists in the MSS., is conjecturally supplied by Lambin, from Plutarch (*Quaest. Roman.* XXXIV. 272.) "**sitque eadem non** *alligata sacris. Venio nunc ad Manium iura, quae maiores nostri et sapientissime instituerunt et religiosissime coluerunt. Februario autem mense, qui tunc extremus anni mensis erat* (See Paley on Ovid, *Fast.* II. 49. Dict. Antiq. '*Calendarium*,') *mortuis parentari* (ποιουμένων χοὰς καὶ ἐναγισμοὺς τοῖς τεθνηκόσι Plutarch *l. c.*) *voluerunt: quod tamen D. Brutus, ut scriptum a Sisenna est, Decembri facere solebat. Cuius ego rei caussam cum mecum quaererem Brutum reperiebam idcirco* (on the ground that the last month of the year was the fitting time) *a more maiorum discessisse* (*nam Sisennam video caussam, cur is vetus institutum non servarit, ignorare*). *Brutum autem maiorum institutum temere neglexisse non fit mihi veri simile*, **doctum est.**"

Vahlen thinks that Frag. 3. "*gratulemurque—mali.*" formed part of this lost passage; and that it is to this place Cicero refers in §. 68. "*de immortalitate.*"

Attius. *v.* **Accius.** A tragic poet: cp. *pro Archia*, XI. 27. "*D. quidem Brutus—Accii, amicissimi sui, carminibus templorum ac monimentorum aditus exornavit suorum.*" Horace, *Epp.* II. i. 56.

Hostia. "*i. e.* **ove**, *quae maxima fuit hostia, sed non maxima victima*" Davies. Acc. to Scaliger, the larger animals were called *victimae*, the smaller *hostiae*: cp. Virgil, *Georg.* II. 146.

adiunctum. Halm, after Bake, brackets as a gloss. Vahlen comp. *Acad. post.* I. v. 21.; *de Fin.* IV. xxiv. 68.

§. 55. **sacra et gentem.** ἓν διὰ δυοῖν, "one who has no part in the *sacra gentilicia*, a stranger." cp. §. 64.

apud maiores nostros A. Torquatus in gente Popillia iudicavit. Nec vero tam denicales, quae a nece appellatae sunt, quia residentur mortuis, quam ceterorum caelestium quieti dies feriae nominarentur, nisi maiores eos, qui ex hac vita migrassent, in deorum numero esse voluissent. Eas in eos dies conferre ius, ut nec ipsius neque publicae feriae sint, totaque huius iuris conpositio pontificalis magnam religionem caerimoniamque declarat. Neque necesse est edisseri a nobis, quae finis funestae familiae, quod genus sacrificii Lari verbecibus fiat, quem ad modum os resectum terra optegatur quaeque in porca contracta iura sint, quo tempore incipiat sepulchrum esse et religione teneatur. 56. Ac mihi quidem antiquissimum sepulturae genus illud fuisse videtur, quo apud Xenophontem Cyrus

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Torquatus. Ernesti thinks that this was the A. M. T., who was Censor *U. C.* 507. Cos. 510. and 513.

denicales. Acc. to Festus, the feast of purification of the family of the deceased. (Possibly, the word may be derived from **decem**, the *novendialia* passing into *denicales* through the practice of inclusive counting).

residentur mortuis. "*i. e. quia feriamur mortuis.* **Residere** *enim* **feriari** *est, a quiete feriarum ducto vocabulo.*" Plautus, Captiv. III. i. 8. "*Ita venter gutturque* **resident** *esuriales ferias.*" Turneb. MSS. have **mortui**, Salamasius conj. *mortuis.*

ut nec ipsius. Vahlen. They are to be appointed for such days that there may be neither other *privatae* (of the master of the feast) nor *publicae feriae*, on those days: Turneb. MSS. have **ut ne ipsius.** Halm adopts Mommsen's conj. **ut ipsius neque.** *i. e.* 'that they may be *feriae privatae* and not *publicae.*'

funestae. *i. e.* how many days they should remain 'unclean.' cp. Virgil, Æn. VI. 150.; 'Numbers' XIX. 14.

Lari. MSS. have **Lare**; but, as Feldh. observes, this form of the dative, although proper enough in the antique phraseology of a law, would be out of place here. He and Halm bracket **verbecibus** as a gloss.

os resectum. Before the cremation of the body, a bone was cut off and reserved, in order that the ceremony of inhumation might be performed over it. Turneb. quotes Varro, *L. L.* IV. 9. **resectum** is an old conj. of Patricius: MSS. have **reiectum**; Turneb. **exceptum**, which Halm prefers. (See Wordsworth, *Frag.* p. 536.)

contracta. §. 57. In case the proper burial rites were not performed, the heir contracted an obligation to sacrifice, each year, a victim to Tellus and Ceres. (Ramsay, *Rom. Ant.* '*porca praecidanea.*').

§. **56. Xenoph.** τὸ δὲ ἐμὸν σῶμα—μήτε ἐν χρυσῷ θῆτε μήτε ἐν ἀργύρῳ,

utitur: redditur enim terrae corpus et ita locatum ac situm quasi operimento matris obducitur. Eodemque ritu in eo sepulchro quod haud procul a Fontis ara est, regem nostrum Numam conditum accepimus gentemque Corneliam usque ad memoriam nostram hac sepultura scimus esse usam. C. Mari sitas reliquias apud Anienem dissipari iussit Sulla victor, acerbiore odio incitatus, quam *si tam* sapiens fuisset quam fuit vehemens. **57.** Quod haud scio an timens ne suo corpori posset accidere, primus e patriciis Corneliis igni voluit cremari. Declarat enim Ennius de Africano: '**Hic est ille situs.**' Vere; nam siti dicuntur ii, qui conditi sunt. Nec tamen eorum ante sepulchrum est, quam iusta facta et porcus caesus est. Et quod nunc communiter in omnibus sepultis usu venit, ut humati dicantur, id erat proprium tum in iis, quos humus iniecta contexerat, eumque morem ius pontificale

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ἀλλὰ τῇ γῇ ὡς τάχιστα ἀπόδοτε κ. τ. λ. (*Cyropaed.* VIII. 7.) Bake compares Plato, *Menex.* 237. C. καὶ νῦν κεῖσθαι τελευτήσαντας ἐν οἰκείοις τόποις τῆς τεκούσης καὶ θρεψάσης καὶ ὑποδεξαμένης. cp. Æschyl. *Ag.* 872. χθονὸς χλαῖναν λαβών.

quod haud procul. MSS. omit *haud.* Acc. to Livy, XL. 29. and Plutarch (*Numa*, XXII.), Numa was buried in the Janiculum. As there was a *Fontis delubrum* near the *porta Capena* (Juvenal, *Sat.* III. 11), Wagner conj. *Fonti* (fr. **Fontus** son of Janus). Feldh. maintains that the name of the deity was Fons, citing Livy, XXXV. 10.

Anienem. Lucan, *Pharsal.* I. 582. "*Tollentemque caput gelidas Anienis ad undas Agricolae fracto Marium videre* (*v.* **fugere**) *sepulcro.*" cp. Plin. *H. N.* VII. 55. Turneb.

quam si tam. "*i. e. quam incitatus fuisset, si tam sapiens fuisset quam.*" Turneb. **si tam** is wanting in the best MSS. Halm suggests "*quam fovisset si tam s.*" Bake thinks that **Victor** was like **Felix**, a surname of the Dictator, cp. *Leg. Manil.* XI. 30.

§. 57. timens ne—posset. MSS. omit *ne.* Moser reads **posse** (See Madvig, *L. G.* §. 376.). Turnebus remarks that infants and persons killed by lightning were not cremated, cp. Juvenal, *Sat.* XV. 139.

Hic est. Turneb. quotes Seneca, (Ep. XVIII. v. 108.) in which the distich is completed: "*Hic est ille situs quoi nemo civis neque hostis Quivit pro factis reddere operae pretium.*"

porcus caesus. an emendation of Luebbert: MSS. have *corpus caesus.* cp. §. 55. Halm *caesus* **sit.** (Key, *L. Gr.* 1231.)

confirmat. Nam prius quam in os iniecta gleba est, locus ille, ubi crematum est corpus, nihil habet religionis: iniecta gleba tumulus, ubi humatus est, ex gleba vocatur, ac tum denique multa religiosa iura conplectitur. Itaque in eo, qui in nave necatus, deinde in mare proiectus esset, decrevit P. Mucius familiam puram, quod os supra terram non exstaret: porcam heredi esse contractam et habendas triduum ferias et porco femina piaculum *faciundum;* si in mari mortuus esset, eadem praeter piaculum et ferias.

XXIII. 58. *Att.* Video quae sint in pontificio iure: set quaero ecquidnam sit in legibus. *M.* Pauca sane, Tite, et, ut arbitror, non ignota vobis. Sed ea non tam ad religionem spectant, quam ad ius sepulcrorum. **Hominem mortuum,** inquit lex in XII tabulis, **in urbe ne sepelito neve urito.** Credo vel propter

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tumulus—gleba. a conj. of Madvig. A. B. have **tumulis et humatus e et gleba.** C. **tum et illis humatus est et gleba vocatur.** Feldh. edits '*tumulus is, ubi humatus est, vocatur;*' his remark "*Quis enim illud ferendum putet, quod sepulchrum vel tumulus* **gleba** *vocatur? Monachorum hoc est non Romanorum.*" indicates, I think, both the origin and the hopelessness of the corruption. At the same time one might, I think, translate the reading of C. (without changing **illis** into *illic*, as Vahlen does): "after the earth has been thrown upon it, then, *as they too* (the pontifices) *hold*, he is buried and the earth is called (his tomb)."

contractam. §. 55. *n.* In the case of the corpse '*qui in nave,*' it was possible to have performed some ceremony over it or, at any rate, to have reserved a bone; in the other case '*si in mari,*' this was impossible. Moser.

piaculum faciundum. Halm after Marini. MSS. have **pati** "*i. e.* the heir incurs;" which Vahlen defends, although it involves an awkward change of construction. With *porco femina* Turneb. comp. *lupus femina*, Ennius (*ap.* Quinctil. I. 6.).

eadem. If we except *piaculum et ferias*, what remains? asks Orelli. Madvig says that **eadem** refers generally to the decree *i. e.* "*familiam puram cet.*" With Görenz I think that *piaculum* is a special atonement, in addition to the yearly sacrifice (*porca contracta*) which is incurred in both cases.

§. 58. ecquidnam. Davies after Aldus; *quidnam* Halm; MSS. have *et quidnam.* Bake aptly remarks: "*huic* (**ecquidnam**), *optime respondet 'pauca:' alteri* (**quidnam**) *respondendum erat, quid esset.*"

vel. "even,' 'for example." "*exempli causa, ut unum hoc afferam.*" Ernest.

ignis periculum. Quod autem addit: **neve urito,** indicat, non qui uratur sepeliri, sed qui humetur. *Att.* Quid? qui post XII in urbe sepulti sunt clari viri? *M.* Credo, Tite, fuisse aut eos, quibus hoc ante hanc legem virtutis causa tributum est, ut Publicolae, ut Tuberto, quod eorum posteri iure tenuerunt, aut eos, si qui hoc, ut C. Fabricius, virtutis causa soluti legibus consecuti sunt. Sed *ut* in urbe sepeliri lex vetat, sic decretum a pontificum collegio, non esse ius in loco publico fieri sepulchrum. Nostis extra portam Collinam aedem Honoris: aram in eo loco fuisse memoriae proditum est. Ad eam cum lamina esset inventa et in ea scriptum lamina: **Honoris,** ea causa fuit aedis huius dedicandae. Sed quom multa in eo loco sepulchra fuissent, exarata sunt; statuit enim collegium locum publicum non potuisse privata religione obligari.

59. Iam cetera in XII minuendi sumptus sunt lamentationisque funebris, translata de Solonis fere

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Publicolae. P. Valerius P. author of the *Lex Valeria de provocatione.* Plutarch (*Publicol.* XXIII.) mentions that he was buried near the Velia; and that all his descendants were entitled to be buried there; but that they merely asserted their privilege without exercising it.

Tuberto. P. Postumius T.; Livy (II. 33.) only says that his colleague, Agrippa Menenius (Cos. *U. C.* 251), was buried at the expense of the Commons: hence Bake opines that Cicero's chronology is at fault.

Fabricius. C. Fabricius Luscinus (Cos. 472., 476., 481.) the conqueror of Pyrrhus.

lamina Honoris. MSS. have *mina* B. H. *domina* A. Before Moser, *lamina* was supposed to be part of the inscription. Vahlen quotes *de Nat. Deor.* III. xxxiv. 84. "*in quibus* (*mensis*) *cum more veteris Graeciae inscriptum esset* BONORUM DEORUM."

privata religione. "*Ex ara et lamina locum esse publicum coniecerunt et sacrum. Nam lamella aerea assimilis stellae locis inaugurandis praefigebatur.*" Turneb.—Things dedicated to the Celestials became '*res sacrae*:' those abandoned to the Infernal Gods 'res religiosae;' a place became a '*locus religiosus*' upon a corpse being deposited there; *provided* that this was done with the consent of the owner of the soil. (Sandars *Justin.* II. *Tit.* I.).

§. 59. **funebris.** Davies. *funeris* MSS. For the genitive after **sunt,** See Madvig, *L. G.* §. 417. Obs. 4.

legibus. **Hoc plus, inquit, ne facito: rogum ascea ne polito.** Nostis quae secuntur; discebamus enim pueri XII, ut carmen necessarium, quas iam nemo discit. Extenuato igitur sumptu tribus reciniis et† uincla purpurae et decem tibicinibus tollit etiam lamentationem: **Mulieres genas ne radunto neve lessum funeris ergo habento.** Hoc veteres interpretes Sex. Aelius, L. Acilius non satis se intellegere dixerunt, sed suspicari vestimenti aliquod genus funebris, L. Aelius lessum quasi lugubrem eiulationem, ut vox ipsa significat: quod eo magis iudico verum esse, quia lex Solonis id ipsum vetat. Haec laudabilia et locupletibus fere cum plebe communia: quod quidem maxime e natura est, tolli fortunae discrimen morte.

XXIV. 60. Cetera item funebria, quibus luctus augetur, XII sustulerunt. **Homini, inquit, mortuo ne ossa legito, quo post funus faciat.** Excipit bellicam

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Hoc plus. "more than this (the limit allowed by law)." The **ascea** seems here to be a 'chisel' or 'adze.' It frequently occurs in inscriptions in the phrase '*sub ascea dedicavit*,' where it probably is a trowel.

tribus—tibicinibus. Halm brackets this passage as a gloss; but, as Vahlen says, the construction is regular (ablative '*modi*'); however it is not difficult to understand how such a gloss might creep in: cp. §. 64. For the corrupt **uincla**, Turneb. conj. **tunicula**; Rubenius **cum clavis** *i. e.* "three '*recinia*' with purple stripes or borders." Festus explains **recinium**: *omne vestimentum quadratum. Hi qui duodecim interpretati sunt, dixere togam virilem, qua mulieres utebantur praetextam clavo purpureo.* In Solon's law (§. 64.) they are called ἱμάτια. For the custom of burying or burning rich vestments with the corpse, and the use of the *tibia* at funerals, Editors cp. Virgil, *Æn.* VI. 221.; Homer, *Il.* XXII. 513.; Ovid, *Fast.* VI. 660.

radunto. "*i. e. lanianto*:" cp. Plutarch (*Solon*, XXI.) ἀμυχὰς κοπτομένων καὶ τὸ κωκύειν ἀφεῖλεν; Pliny, *H. N.* XI. 58. Turneb.

Ælius. S. Ælius Paetus Catus (Cos. 556.) the eminent Jurist, of whom Ennius says: "*Egregie cordatus homo catus Ælius Sextus.*" L. Ælius Stilo, the teacher of Varro: cp. *Brut.* LVI. 205. L. Acilius Sapiens: cp. *Lael.* II. 6. where some read Attilius.

significat. *i. e.* that it is a case of onomatopœia. Bake.

§. 60. **faciat.** Schoemann thinks that the passage "*Credo—sanctum est.*" should properly come after *faciat.* Kirchmann thinks that this law is

peregrinamque mortem. Haec praeterea sunt in legibus: de unctura *vecturaque* servilis unctura tollitur omnisque circumportatio; quae et recte tolluntur, neque tollerentur, nisi fuissent. **Ne sumtuosa respersio, ne longae coronae nec acerrae** praetereantur. Illa iam significatio est, laudis ornamenta ad mortuos pertinere, quod **coronam virtute partam** et ei, qui peperisset, et eius parenti sine fraude esse lex impositam iubet. Credoque, quod erat factitatum, ut uni plura fierent lectique plures sternerentur, id quoque ne fieret lege sanctum est. Qua in lege quom esset, **neve aurum addito,** *videte* quam humane excipiat altera lex, praecepit altera lege ut cui auro dentes iuncti essent:

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directed against the practice of reserving portions of the dead body, after the funeral, for the purpose of prolonging the mourning and repeating the funeral ceremonies. This practice must not be confounded with the *os resectum* (§. 55.) for the purpose of duly performing the rites of inhumation.

de unctura vecturaque. Huschke, by the simple addition of *vectura* (easily absorbed by the preceding word) preserves and explains the MSS. reading. All extravagance and pomp in the funeral of a slave is forbidden. Halm omits *de uncturaque*, reading: *servilis unctura*—**tollitor**—*circumpotatio*; as if these were the words of the law. Some explain *servilis unctura* as the anointing of a corpse *by* a slave, the *pollinctor;* but Davies well observes that this was especially a menial office. Those who read **circumpotatio** explain it as the '*silicernium*' or περίδειπνον (Dict. Antiq. *s. v.*); Feldh. reads **circumputatio**: "*i. e. circumpurgatio*, **putus**=*purus.*" As Davies remarks, the maxim "*tolli fortunae discrimen.*" is left out of sight; but then the slave was a chattel, with which no comparison could be instituted.

praetereantur. *i. e.* let these clauses (**Ne—acerrae**) be dismissed without comment. Manutius conj. *praeferantur*, as if this word formed part of the law. Pliny, *H. N.* XIV. 14: says that a law of Numa forbade to sprinkle the pyre with wine. cp. Virg. *Aen.* VI. 226.

virtute partam. Pliny, *H. N.* XXI. 5., thinks that chaplets won in a chariot race were included. (See *Tab.* X. of XII.).

plura fierent. Halm supplies *funera.* Lambin conj. **feretra.** For **sternerentur** the best MSS. have *interrentur;* this suggests to me **incremarentur**, the compendium of which would be similar to MSS.

videte—lege. Vahlen has supplied *videte;* which would easily be omitted, and is required by the construction. Halm edits *quam humane* **excipitur altera** *ut*, which is rather violent.

iuncti essent. MSS. If we assume, as I have done, that Cicero has chosen to express so much of the law (**ut—essent**) in his own words;

ast im cum illo sepeliet uretve se fraude esto. Et simul illud videtote, aliud habitum esse sepelire et urere. **61.** Duae sunt praeterea leges de sepulchris, quarum altera privatorum aedificiis, altera ipsis sepulchris cavet. Nam quod **rogum bustumve novum** vetat **propius sexaginta pedes adici aedes alienas invito domino,** incendium veretur acerbum [vetat]. Quod autem **forum,** id est vestibulum sepulchri, **bustumve usu capi** vetat, tuetur ius sepulchrorum. Haec habemus in XII, sane secundum naturam, quae norma legis est. Reliqua sunt in more, funus ut indicatur, si quid ludorum, dominusque funeris utatur accenso atque lictoribus, **62.** honoratorum virorum laudes in contione memorentur easque etiam cantus ad tibicinem prosequatur, cui nomen neniae, quo vocabulo etiam *apud* Graecos cantus lugubres nominantur.

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afterwards breaking off and giving the words of the law (**ast—esto**); we shall not need to change *essent* into **esunt** (Halm after Klotz) or **escunt** (Vahlen, Lambin). (For the form &c. see Wordsworth, *Frag.* p. 511.). For the use of artificial teeth, Editors compare Martial, I. 73; XII. 23.

sepeliet uretve. Vahlen. MSS. A. B. *sepelletur et ve.* Turneb. *sepelire urereve;* Halm adopts Bücheler's conj. *sepelirei ureive.* The archaisms **im** for *eum* and **se** for *sine*, occur more than once, in the XII. (See Wordsworth, *Frag.*).

§. 61. **adici.** MSS. have: B. *adici aedes* repeated; A. an erasure, showing that it had something of the same kind too. I cannot but think that the original was **adici ad aedes.** Wyttenbach says: "*Lex vetat* **adiici** *i. e. admoveri bustum ad aedes alienas. Praepositio* **ad** *omissum est antiquo more.*" Sixty feet is, I believe, the limit required by the Insurance Companies for an "Isolated Risk."

veretur acerbum. Vahlen thinks that *vetat* has crept in from the line above. Halm conj. *ut arceatur vetat.* Bake observes: "**acerbum,** *quod ex re acerba, ut h. l. ex funere oritur.*" He compares *Verr.* I. xxii. 58. The epithet *acerbum* would appear to have been frequently used in this conjunction, cp. §. 56.

forum. 'the approach to a tomb.' (same rt. as πόρος). **usucapi.** cp. I. §. 55. *n.*

indicatur. by the public crier: it was then called a '*funus indictivum*' (See Dict. Antiq.).

§. 62. **honoratorum.** *i. e.* those who have held offices of state (*honores*). Moser.

easque. Schlegel conj. *eosque;* Feldh. explains that **easque** does not necessarily refer to the "*laudationes pro rostris habitae,*" but to *laudes* generally.

apud Graecos. MSS. omit *apud.* Klotz conj. **a Graecis.** Some

XXV. *Q.* Gaudeo nostra iura ad naturam accommodari maiorumque sapientia admodum delector; sed re [cedo] quiro, ut ceteri sumptus, sic etiam sepulchrorum modum. *M.* Recte requiris: quos enim ad sumptus progressa iam ista res sit, in C. Figuli sepulchro vidisse te credo. Minimam olim istius rei fuisse cupiditatem, multa exstant exempla maiorum. Nostrae quidem legis interpretes, quo capite iubentur sumptus et luctum removere a deorum manium iure, hoc intellegant in primis, sepulchrorum magnificentiam esse minuendam. 63. Nec haec a sapientissimis legum scriptoribus neglecta sunt. Nam et Athenis iam illo [mores] a Cecrope, ut aiunt, permansit hoc ius terra humandi,

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have derived *νηνία* fr. *νέατος novissimus:* but we think that anyone, who has heard a bagpipe, would class it as an onomatopœia.

Gaudeo—modum. Vahlen attributes this passage to Atticus: cp. §§. 58. and 67.; the sentiment however (*nostra*) seems to suit Quintus better. At the same time, I feel certain that he is right in attributing the whole of this passage to one speaker. Halm and others edit: **delector.** ***M.*** **Sed credo, Quinte, ut—modum recte requiri.** In the text, I have followed Vahlen, who gives the MSS. **recedoquiro**, marking **cedo** as a superfluous insertion in *requiro*, and adopting Turnebus' conj. *requiris* for MSS. *requiri.* But I cannot help thinking that MSS. *recedoquiro* points to an original *recte, credo, requiro;* the affirmative answer to which would be the echo: **Recte requiris.** Written compendiously, with the customary ecthlipsis of similar letters and syllables, *recedoquiro* is the natural relic of *recte, credo, requiro.* This emendation has, I see, been proposed by Huschke.

nostra iura. "*Nempe* XII. *tab.* **Accommodari** *i. e. ostendi ea convenire cum natura.*" Bake. Notice the tense.

Figuli. probably C. Marcius Figulus (Cos. 690.). Bake cites *ad Attic.* XII. 35; 36. where Cicero mentions the existence of a law regulating the expense on tombs; adding that he should not much mind it. After **vidisse** MSS. omit **te**; for **exstant exempla** MSS. have *extarent ampla:* the correction is Madvig's.

interpretes. "Those who may have to interpret our law. (§. 22.)."

§. 63. **illo mores.** Various emendations have been proposed. Vahlen suggests *nostis iam illos mores, a C.* In MSS. *ille mos* is found as a correction; Feldh. reads *ille mos a C., ut aiunt, permansit ac ius.* Turneb. *illo more a C.* For **hoc ius** some read *ocius* (referring to the Athenian custom of burying on the third day). Halm, after Stephens, edits *ille mos—permansit corpus.* Was the original: *iam illo à Cecrope, ut aiunt.* with *maiores* added, as a marginal or interlinear comment, by some

quod quom proxumi fecerant obductaque terra erat, frugibus obserebatur, ut sinus et gremium quasi matris mortuo tribueretur, solum autem frugibus expiatum ut vivis redderetur. Sequebantur epulae, quas inirent propinqui coronati, apud quos de mortui laude quom, si quid veri *poterat*, erat praedicatum—nam mentiri nefas habebatur—, iusta confecta erant. **64.** Postea quam, ut scribit Phalereus, sumptuosa fieri funera et lamentabilia coepissent, Solonis lege sublata sunt: quam legem eisdem prope verbis nostri decemviri in decimam tabulam coniecerunt; nam de tribus reciniis et pleraque illa Solonis sunt. De lamentis vero expressa verbis sunt: **mulieres genas ne radunto neve lessum funeris ergo habento.**

XXVI. De sepulchris autem nihil est apud Solonem amplius quam "ne quis ea deleat neve alienum inferat," poenaque est "si quis bustum"—nam id puto appellari *τύμβον*—"aut monimentum" inquit "aut columnam violarit, raserit, fregerit." Sed post aliquanto

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scribe who was not familiar with the proverbial *ut aiunt?* (cp. I. 8.). Madvig tells us (*Advers.* Vol. I. p. 40.). that **mores** and **maiores** are occasionally interchanged in MSS.

quod quom. Halm, after Turneb.: MSS. *quam quom.* Manutius conj. *iniecerant* for *fecerant.* Scheffer understands *humationem* from the preceding **humandi.**

poterat. added by Halm '*praeeunte Madvigio*:' Davies quotes the saying *οὐκ ἐπαινεθείης οὐδ' ἐν περιδείπνῳ* as a contradiction of this statement. Creuzer cites *Brut.* XVI. 62., where Cicero complains that funeral orations have falsified history. (See Lewis, Early Rom. Hist. I. 180. foll.). For **iusta confecta** MSS. have *adiusta coniecta.*

§. 64. **Phalereus.** Demetrius Phalereus, pupil of Aristotle, Governor of Athens under Cassander: cp. III. §. 14. Wyttenb.

expressa verbis. "*i. e. non sententia tantum legis Soloneae, sed quae in decima tab. sunt, verbis adeo expressa sunt placita Solonis.*" Bake cp. Livy, III. 34.

bustum. "the place of burning." "*ut* **bustum** *ab urendo, ita τύμβος a τύφεσθαι.*" Turneb. (Modern philologists compare *τύμβος* with *tumulus.* See Curtius, *Grundzüge.*).

raserit. Huschke. MSS. A. *iacerit* (*J et* c *corr.*), B. *acerit.* Vulg. *deiecerit.*

propter has amplitudines sepulchrorum, quas in Ceramico videmus, lege sanctum est "ne quis sepulchrum faceret operosius quam quod decem homines effecerint triduo;" **65.** neque id opere tectorio exornari nec hermas quos vocant licebat inponi, nec de mortui laude nisi in publicis sepulturis nec ab alio, nisi qui publice ad eam rem constitutus esset, dici licebat. Sublata etiam erat celebritas virorum ac mulierum, quo lamentatio minueretur; auget enim luctum concursus hominum. **66.** Quocirca Pittacus omnino accedere quemquam vetat in funus alienorum. Sed ait rursus idem Demetrius increbruisse eam funerum sepulchrorumque magnificentiam, quae nunc fere Romae est. Quam consuetudinem lege minuit ipse; fuit enim hic vir, ut scitis, non solum eruditissimus, sed etiam civis e re publica maxime tuendaeque civitatis peritissimus. Is

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Ceramico. "Potter's field." There were two places so called at Athens: one within the Dipylon and one outside. In the outer Ceramicus those who fell in battle were buried. (See Leake's Athens, p. 290. foll.). For **videmus** Halm reads *vidimus*.

§. 65. **tectorio.** 'plaster work' or 'facing.' Material for overlaying walls, according to Vitruvius, was of three kinds: *albarium*, *arenatum*, *marmoratum*. Wyttenbach.

hermas. These were busts of Hermes terminating in a square column. cp. Thucyd. VI. 27. MSS. have: A. *hermasos*. B. *Ermasos*. Vahlen reads *hermas* **hos** *quos*: cp. *Orat.* XXXIX. 134. *χαρακτὴρ ille qui dicitur.*

publice. Thus Pericles was appointed to pronounce the funeral oration over those who fell in the early part of the Peloponnesian war. See Thucyd. II. 34.

celebritas. "*dicitur pro* '**frequentia.**" Moser. *celeber* is merely a longer form of *creber*. For **auget** MSS. have *huc* or *huic*. Victor. **habet**: with which Görenz compares Grk. ἔχει.

§. 66. **Pittacus.** A lawgiver of Lesbos, one of the Seven. MSS. have *aliorum*, Bake conj. *alienorum* (τῶν μὴ προσηκόντων): because in the law quoted as Solon's, Demosth. *Macart.* 1071., relatives are specially mentioned.

peritissimus. MSS. have *paratissimus*. Davies conj. *civitati p.* With **civis e republica** Bake compares *ad Div.* IX. xxi. 3. *χρηστός* is the force he gives it. I think that Cicero has in mind the Grk. πολιτικώτατος: which would cover both Creuzer's explanation "*civis reip. utilis*" and Turnebus' "*versatus in reip. administratione.*"

igitur sumptum minuit non solum poena, sed etiam tempore; ante lucem enim iussit efferri. Sepulchris autem novis finivit modum; nam super terrae tumulum noluit quidquam statui nisi columellam tribus cubitis ne altiorem aut mensam aut labellum, et huic procurationi certum magistratum praefecerat.

XXVII. 67. Haec igitur Athenienses tui. Sed videamus Platonem, qui iusta funerum reicit ad interpretes religionum: quem nos morem tenemus. De sepulchris autem dicit haec. Vetat ex agro culto eove, qui coli possit, ullam partem sumi sepulchro; sed quae natura agri tantum modo efficere possit, ut mortuorum corpora sine detrimento vivorum recipiat, ea potissimum ut conpleatur: quae autem terra fruges ferre et ut mater cibos suppeditare possit, eam ne quis nobis minuat neve vivos neve mortuos. 68. Exstrui autem vetat sepulchrum altius quam quod *quinque homines* quinque diebus absolverint, nec e lapide excitari plus

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tempore. Because there would be less opportunity for display in the dark. As Davies remarks, this provision is found in the so called law of Solon. (Demosth. *l. c.*)

quidquam. MSS. have *quod.* Vahlen and others *quid* (Madvig, *L. G.* §. 494.). **columellam** = *στηλίδιον*: for the archaic **ne** there is a *v. l. non.*

mensam. 'a tablet.' "**labellum** *dicit quod Graeci πύελον vocant.*" Turneb. 'a flat lipshaped vessel' Wyttenb.

magistratum. Bake thinks that no new officer was appointed but that the *astynomi* were charged with this duty.

§. 67. **tui.** addressing Atticus: cp. §. 36.

Platonem. *Legg.* XII. ix. 958. *περὶ τελευτήσαντας—ὅσα προσήκει τελεῖσθαι, τοὺς ἐξηγητὰς γίγνεσθαι κυρίους. Θήκας δὲ εἶναι τῶν χωρίων, ὁπόσα μὲν ἐργάσιμα μηδαμοῦ—ἃ δὲ ἡ χώρα πρὸς τοῦτ' αὐτὸ μόνον φύσιν ἔχει, τὰ τῶν τετελευτηκότων σώματα μάλιστα ἀλυπήτως τοῖς ζῶσι δεχομένη κρύπτειν, ταῦτα ἐκπληροῦν. κ. τ. λ.*

quae natura agri. 'land of such a nature that.'

conpleatur. supply *iubet* fr. preceding **vetat.** cp. §. 15. *n.* Halm gives **vivos—mortuus**, possibly by an oversight; MSS. are said to exhibit the *o* form of the nominative in both words.

§. 68. **quinque homines.** supplied by Turnebus from Plato (*l. c.*).

excitari plus. MSS. have *prius.* Davies *amplius.* "**Excitantur**

nec inponi quam quod capiat laudem mortui, incisam ne plus quattuor herois versibus, quos longos appellat Ennius. Habemus igitur huius quoque auctoritatem de sepulchris summi viri, a quo item funerum sumptus praefinitur ex censibus a minis quinque usque ad minam. Deinceps dicit eadem illa de inmortalitate animorum et reliqua post mortem tranquillitate bonorum, poenis impiorum.

69. Habetis igitur explicatum omnem, ut arbitror, religionum locum. *Q.* Nos vero, frater, et copiose quidem, sed perge cetera. *M.* Pergam equidem, et quoniam libitum est vobis me ad haec inpellere, hodierno sermone conficiam, spero, hoc praesertim die. Video enim Platonem idem fecisse omnemque orationem eius de legibus peroratam esse uno aestivo die. Sic igitur faciam et dicam de magistratibus; id enim est profecto, quod constituta religione rem publicam contineat maxime. *Att.* Tu vero dic et istam rationem quam coepisti tene.

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columellae, **imponuntur** *mensae et labella.*" Turneb. For this sense of *excito* cp. our 'raise' and 'rouse.'

herois. Plato (*l. c.*) *τεττάρων ἡρωϊκῶν στίχων.* Cicero (*pro Archia* x. 35.) calls Elegiacs "*alterni versus longiusculi.*"

item. MSS. have *iterum.* *τῷ μὲν δὴ τοῦ μεγίστου τιμήματος εἰς τὴν πᾶσαν ταφὴν ἀναλισκόμενα μὴ πλέον πέντε μνῶν, τῷ δὲ τοῦ δευτέρου τρεῖς κ. τ. λ.* Plato (*l. c.*).

Deinceps—impiorum. Halm, following Wagner, brackets this passage as spurious. Vahlen and Feldh. defend it: the former explains '**eadem illa** *quae nos antea exposuimus,*' viz. in the *lacuna* §. 54.: Feldh. thinks that he alludes to the discussion in the '*Somnium Scipionis*' (*de Rep.* VI. cp. *Lael.* IV. 14.), as being perfectly familiar to his hearers. Turnebus took it to mean that the arguments used by Plato in this passage (*de Legg.* XII. 959.) were similar to those in the Phaedo. For **reliqua**, in this sense, Feldh. comp. *pro Sest.* XXXIV. 73. "*spe* **reliquae** *tranquillitatis praesentes fluctus fugisse.*"

§. 69. **perge cetera.** "*sc. explicare*:" cp. *ad Attic.* IV. 11. Moser.

hoc praesertim. "*solstitiali, qui longissimus est.*" Turneb. cp. I. §. 15. III. §. 30.

constituta. "*i. e. posteaquam religio, tanquam fundamentum, constituta fuerit.*" Wyttenb. **contineat.** cp. §. 30. *n.*

LIBER TERTIUS.

I. 1. *Marcus.* Sequar igitur, ut institui, divinum illum virum, quem quadam admiratione commotus saepius fortasse laudo quam necesse est. *Att.* Platonem videlicet diligis. *M.* Istum ipsum, Attice. *Att.* Tu vero eum nec nimis valde umquam nec nimis saepe laudaveris. Nam hoc mihi etiam nostri illi, qui neminem nisi suum laudari volunt, concedunt, ut eum arbitratu meo diligam. *M.* Bene hercle faciunt. Quid enim est elegantia tua dignius? cuius et vita et oratio consecuta mihi videtur difficillimam illam societatem gravitatis cum humanitate. *Att.* Sane gaudeo, quod te interpellavi, quoniam quidem tam praeclarum mihi dedisti iudicii tui testimonium: sed perge, ut coeperas. 2. *M.* Laudemus igitur prius legem ipsam veris et propriis generis sui laudibus. *Att.* Sane quidem, sicut de religionum lege fecisti. *M.* Videtis igitur magistratus hanc esse vim, ut praesit, praescribatque recta et utilia et coniuncta cum legibus. Ut enim magistratibus leges, ita populo praesunt magistratus, vereque dici potest magistratum legem esse

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§§. 1—12. In pursuance of the plan announced in Bk. II. §. 14., we have first, an introductory on the Magistracy: its definition, necessity and utility: not only must there be a properly constituted authority in the State; but there must also be a proper respect for authority, on the part of the citizens. Then follow the several clauses of the Law; which, like that on Religion, is stated not to differ essentially from the Roman constitution, being adapted to the form of government prescribed in Cicero's Republic.

§. 1. **diligis.** Feldh. defends this reading. Most Edd. adopt the correction *dicis*. *Translate:* 'Plato, one may see, is your choice.' cp. I. §. 15.

nostri. cp. I. §. 21. With this encomium on Atticus Wyttenbach comp. Cornel. Nepos (*Attic.* xv.).

§. 2. **dici potest.** Moser and others omit *potest*, marking **ut enim —magistratus.** as a parenthesis. Editors cp. the dictum ascribed to

loquentem, legem autem mutum magistratum. 3. Nihil porro tam aptum est ad ius condicionemque naturae —quod cum dico, legem a me dici intellegi volo— quam imperium, sine quo nec domus ulla nec civitas nec gens nec hominum universum genus stare nec rerum natura omnis nec ipse mundus potest. Nam et hic deo paret et huic oboediunt maria terraeque et hominum vita iussis supremae legis obtemperat. II. 4. Atque ut ad haec citeriora veniam et notiora nobis, omnes antiquae gentes regibus quondam paruerunt. Quod genus imperii primum ad homines iustissimos et sapientissimos deferebatur, idque et in re publica nostra maxime valuit, quoad ei regalis potestas praefuit, deinde etiam deinceps posteris prodebatur; quod [et]

Simonides: *τὴν μὲν ζωγραφίαν ποίησιν σιωπῶσαν—τὴν δὲ ποίησιν ζωγραφίαν λαλοῦσαν.* Aristot. *Poet.* XXVI. 2.: cp. Xenoph. *Cyrop.* VIII. i. 22. *τὸν ἀγαθὸν ἄρχοντα βλέποντα νόμον ἀνθρώποις ἐνόμιζεν.*

§. 3. **dici intellegi.** Davies *dici, nihil aliud int.* from inferior MSS.; Halm would omit *intellegi.* Vahlen cp. *de Fin.* V. xi. 33. "*hoc intellegant, si quando naturam hominis dicam, hominem dicere me:*" this converted into the passive form, becomes "*hoc intellegi volo—hominem a me dici.*" cp. I. §. 18.

imperium. Turneb. cites Sophocl. *Antig.* vv. 663. foll. *Ἀναρχίας γὰρ μεῖζον οὐκ ἔστιν κακόν, Αὕτη πόλεις ὄλλυσιν ἥδ' ἀναστάτους Οἴκους τίθησιν κ. τ. λ.* cp. *Cluent.* LIII. 146.

huic. *sc. deo.* cp. I. §. 23. *n.* Shaksp. *Troil. & Cress.* "The heavens themselves, the planets and this centre, Observe degree &c."

§. 4. **citeriora.** "the things of this earth, which are nearer and more familiar." Turneb. quotes "*Quare, si placet, deduc orationem tuam de caelo ad haec cituma.*" *de Rep.* I. xxi. 34.

antiquae. cp. Aristot. *Pol.* I. 2. *διὸ καὶ τὸ πρῶτον ἐβασιλεύοντο αἱ πόλεις.* Cic. *de Off.* II. xii. 41. Turneb.

idque et. Davies. *idque ut* MSS. All monarchies would seem to have been originally elective; as the chieftainships of savage tribes generally are now. Cicero (*Rep.* II. 12.) says: "*nostri illi etiam tum agrestes viderunt, virtutem et* sapientiam *regalem non* progeniem *quaeri oportere:*" yet the tendency towards the principle of hereditary succession is so universal that, as Lewis says: "the Roman kingdom appears to be the only instance in antiquity of a series of elective kings;" while even among them we find "traces of the admission of a hereditary right to the throne" (Early Rom. Hist. I. p. 531.).

deinde. answers to *primum;* **deinceps** (*ἐφεξῆς*) connected with *posteris,* denotes the succession, from father to son. Bake.

quod et. Halm suggests *quod et in his qui etiam.* For **regnant** Le Clerc conj. *regnantur,* which seems better.

in iis etiam, qui nunc regnant, manet. Quibus autem regia potestas non placuit, non ii nemini, sed non semper uni parere voluerunt. Nos autem, quoniam leges damus liberis populis, quaeque de optima re publica sentiremus, in sex libris ante diximus, accommodabimus hoc tempore leges ad illum, quem probamus, civitatis statum. 5. Magistratibus igitur opus est, sine quorum prudentia ac diligentia esse civitas non potest, quorumque discriptione omnis rei publicae moderatio continetur. Neque solum iis praescribendus est imperandi, sed etiam civibus optemperandi modus. Nam et qui bene imperat paruerit aliquando necesse est, et qui modeste paret videtur qui aliquando imperet dignus esse. Itaque oportet et eum, qui paret, sperare se aliquo tempore imperaturum et illum, qui imperat, cogitare brevi tempore sibi esse parendum. Nec vero solum ut optemperent oboediantque magistratibus, sed etiam ut eos colant diligantque praescribimus, ut Charondas in suis facit legibus. Noster vero Plato Titanum e genere statuit eos, qui ut illi caelestibus, sic hi adversentur magistratibus. Quae cum ita sint, ad ipsas iam leges veniamus, si placet. 6. *Att.* Mihi vero et istud et ordo iste rerum placet.

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§. 5. **Magistratibus.** Imitated from Aristot. *Pol.* VII. (VI.) 8. *ἀκόλουθον—τὸ διῃρῆσθαι καλῶς τὰ περὶ τὰς ἀρχὰς—τῶν μὲν γὰρ ἀναγκαίων ἀρχῶν χωρὶς ἀδύνατον εἶναι πόλιν κ. τ. λ.* Vahlen retains MSS. **descriptione**; but the meaning (*ordinatio, in suas classes redactio*, Wyttenb.) and its apparent correspondence with *διῃρῆσθαι*, point to the form *discr.* §. 7. *n.*

civibus. depends on **praescribendus**: cp. "*ut optemp.—praescribimus.*" With this passage Edd. compare Aristot. *Pol.* IV. (VII.) 14. *τόν τε γὰρ μέλλοντα καλῶς ἄρχειν ἀρχθῆναί φασι δεῖν πρῶτον.* *Ibid.* II. 2.; Plato, *Legg.* VI. 762. E.

Charondas. Stobaeus (*Serm.* XLII. 290.) quotes this law. Turneb. See II. §. 14. *n.*

Titanum. Plato, *Legg.* III. 701. C. The redundant **hi**, inserted for the sake of balancing **ut illi**, causes an *anacoluthon* (See Madv. *L. G.* §. 489.).

III. 6. *M.* **Iusta imperia sunto, isque civis modeste ac sine recusatione parento: magistratus nec oboedientem et innoxium civem multa, vinculis verberibusve coherceto, ni par maiorve potestas populusve prohibessit, ad quos provocatio esto. Cum magistratus iudicassit inrogassitve, per populum multae poenae certatio esto. Militiae ab eo qui imperabit provocatio nec esto, quodque is qui bellum geret imperassit, ius ratumque esto.**

Minoris magistratus partiti iuris ploeres im ploera sunto. Militiae, quibus iussi erunt, imperanto eorumque tribuni sunto: domi pecuniam publicam custodiunto, vincula sontium servanto, capitalia

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§. 6. **imperia.** The general rule for magistrates and citizens: (§. 5.) '**imperandi**:' *imperia* must be 'lawful;' **obtemperandi**: they must be obeyed 'in an orderly and cheerful spirit.'

et innoxium. Vahlen and MSS. Davies **nec innoxium**; Halm, after Victor., **et noxium**; Scheffer explains **innoxium**: '*valde noxium* cp. *incanus*;' Huschke **et exin noxium**; no change seems necessary if we give to **et** the force of *vel—i. e.* "although in other respects inoffensive."

potestas. 'abstr. for concr.' cp. ἀρχή. A magistrate, of equal or superior authority, might interfere in the culprit's behalf (*auxilio esse, intercedere*) or the *lex Valeria Horatia* (449.) allowed an appeal to the people, against the sentence of any magistrate. (Dict. Antiq. *appellatio*).

Cum. Bake **quam**: "*sc.* multam, pœnam." Halm **quoi.**

multae pœnae. *asyndeton.* With this use of **certatio** Wyttenb. comp. Gk. ἀγών: cp. Livy, XXV. 4.

imperabit. "shall have *imperium*:" here *imperium* has its technical sense: "absolute military authority" (conferred by a *lex curiata* and suspended within the city limits) as contrasted with *potestas*, which a magistratus possessed in virtue of his office. (See Dict. Antiq. *imperium.*).

Minoris. Those who had the *auspicia minora*: *e. g.* the *Quaestores*, *Ædiles* &c. as opp. to those who had the *auspicia maiora*: viz. Dictator, Consul, Praetor, Censor, who were called *Maiores Magtus.*

partiti iuris. "with special functions; several for the several departments." *partiti* opp. to **universi**: "*nam iis qui cum imperio sunt* **universum** *ius et potestas tribuitur.*" Turneb. **ploera.** §. 10. *n.*

Militiae, quibus. "In the field, let them (the *minores m.*) command those whom they shall be appointed to command, and be their tribunes (*tribuni militum*) &c." In the enumeration of the civil functions of the *minores m.*, which follows, we have: (1) Quaestores (*pecuniam*); (2) Triumviri Capitales, (*vincula cet.*); (3) Triumviri Monetales (*aes cet.*); (4) Decemviri Centumvirales (*litis cet.*). (See Dict. Antiq.).

vindicanto, aes argentum aurumve publice signanto, litis contractas iudicanto, quodcumque senatus creverit agunto.

7. Suntoque aediles curatores urbis annonae ludorumque sollemnium, ollisque ad honoris amplioris gradum is primus adscensus esto.

Censoris populi aevitates, suboles, familias pecuniasque censento, urbis tecta templa, vias aquas, aerarium vectigalia tuento, populique partis in tribus discribunto, exin pecunias, aevitatis, ordinis

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quodcumque. MSS. have *quodquodcumque.* Halm suggests *quodque cumque.* Huschke *Quaestores quodcumque.*

§. 7. **curatores.** The functions of the Ædiles are comprised under these three heads: (1) general charge of the city; (2) regulation of the market; (3) superintendence of the public games; of which the *ludi Megalenses* and *Romani* belonged to the Curule, while the *Plebeii* specially devolved on the Plebeian Ædiles. (Dict. Antiq. *Ædiles*).

adscensus. Cicero calls the Quaestura '*primus* **gradus** *honoris*' (Verr. I. 4.); but the Curule Ædileship was the first *honos* which gave the *ius imaginum* (*Verr.* V. 14.); and, as Bake says, *adscensus* is not exactly synonymous with *gradus*: cp. our 'step' and 'step up.'

Censores. Their functions, Bake thinks, are stated with more particularity, because this office had fallen into abeyance: suspended by Sulla, from the cens. of Perperna (*U. C.* 668.) till the first cons. of Pompeius (684.) it was subsequently curtailed by Clodius as Trib. Pleb. (696).

aevitates. cp. ἡλικίαι. "*i. e. civium numerum secundum varias aetates;* **soboles** *i. e. progeniem natorum;* **familias** *i. e. famulos et servos.*" Wyttenb.

tecta templa. Halm after Bake. MSS. have *urbista templa.* Feldh. objects that by **tecta**, in the phrase '*tecta ac templa*,' private buildings are meant, as opp. to public. The passage (Livy, XLII. 3.) which he quotes, in support of his own conj. **loca**, would seem rather to establish Huschke's conj. **urbis sarta tecta templa.** The contracts for public works appear to have been let by the Censors; but the duty of supervision would seem to have devolved upon the Ædiles and Quaestores, in their respective departments (See Ramsay, *R. A.*).

discribunto. There is a *v. l.* **distribuunto**, from which it would be difficult to distinguish it in MSS. The difference of meaning is slight.—According to Halm (*ad Catil.* I. IV. 9.), the Latin writers said **discribere** not **describere**, where the fundamental meaning was *distribuere, dividere, disponere.* The people are first to be arranged according to their respective tribes, and afterwards to be divided according to property and age, into *classes* and *centuriae.* Halm suspects that *ex in* is a corruption, probably of **et in.** (See Dict. Antiq. *Comitia Centur.*).

partiunto, equitum peditumque prolem describunto, caelibes esse prohibento, mores populi regunto, probrum in senatu ne relinquunto: bini sunto, magistratum quinquennium habento: reliqui magistratus annui sunto: eaque potestas semper esto.

8. Iuris disceptator, qui privata iudicet iudicarive iubeat, praetor esto: is iuris civilis custos esto: huic potestate pari quotcumque senatus creverit populusve iusserit, tot sunto.

Regio imperio duo sunto, iique praeeundo, iudicando, consulendo praetores, iudices, consules appellamino: militiae summum ius habento,

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equitum peditumque. '*i. e.* of all the citizens.' The Servian constitution was, in its origin, a purely military organization; the people being regarded as an army and primarily divided into cavalry and and infantry. (Mommsen, *Hist. Rom.* I. vi.). cp. *Tuscul.* IV. i. 1.

caelibes. In *U. C.* 351. the Censores imposed a fine (*aes uxorium*) with this object: the most famous enactment of this kind was the *lex Julia de maritandis ordinibus* passed by Augustus (*U. C.* 736.). (Dict. Antiq. *lex Julia et Papia Poppaea*).

probrum. 'abstr. for concrete.' cp. §. 10.

quinquennium. The Censors originally held their office from one *lustrum* to another; but the *lex Æmilia* (*U. C.* 320.) limited their term of office to a year and six months. Halm and Bake think the following parenthesis (**reliqui—sunto**) out of place.

§. 8. **iudicarive iubeat.** The Praetor either decided the matter himself or appointed *iudices.* (Dict. Antiq. *iudicia privata*).

custos esto. Because "*et sua et priorum Praetorum edicta servabat, unde existebat ius honorarium.*" Wyttenb. cp. I. 17.

quotcumque. "*id ait, quia prætorum numerus certus non erat. Nam capta Sicilia, Sardinia, Hispania, Gallia Narbonensi, auctus est praetorum numerus: constitutisque quaestionibus publicis, Sulla quattuor adiecit, J. Caesar duos.*" Turneb. (Dict. Antiq. *Praetores*).

Regio. cp. §. 15. and Livy, II. i. (See Lewis, *R. H.* I. p. 537.). According to Mommsen *consules* merely = "colleagues:" "those who leap or dance together." (*H. R.* B. II. c. i.). Corssen, however, connects these words with Sanscrit **sar** = '*ire, fluere;*' *consul* 'one who goes together:' others with **sedeo** cp. *sella;* the meaning in every case being "**colleagues.**"

appellamino. MSS. Halm and Vahlen. Others **appellantor.** Bergk conj. **appellaminoe.** Halm remarks that the ancients probably used the same form in the singular and plural promiscouusly. Philologists tell us that the forms *appellamino* and *appellamini* are strictly participial, analogous to Grk.—*μενο*—. Thus **appellamino** = *appellamino-s sis*, **appellamini** = *appellamini estis* (pres.) or *sitis*, (fut. imper.). There is nothing

nemini parento: ollis salus populi suprema lex esto.

9. Eumdem magistratum, ni interfuerint decem anni, ne quis capito: aevitatem annali lege servanto.

Ast quando duellum gravius, discordiae civium escunt, oenus ne amplius sex menses, si senatus creverit, idem iuris quod duo consules teneto, isque ave sinistra dictus populi magister esto: equitatumque qui regat habeto pari iure cum eo, quicumque erit iuris disceptator.

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then to hinder the form *appellamini* (*sitis, sunto.*) or, as Bergk proposes the archaic—*aminoe* from serving indifferently for 2nd and 3rd pers. plural: by a further process *e* would be absorbed leaving—*amino.*

suprema lex. This is equivalent to the '*decretum ultimum:*' "*videant Coss. ne quid detrimenti capiat respublica.*" (See Dict. Antiq. *s. v.*). du Mesnil thinks that it refers to **militiae**: being the only rule for their guidance in the field.

§. 9. **eumdem m.** Livy, VII. 42. after mentioning a law against usury, of L. Genucius (*U. C.* 413.), says: "*item aliis plebiscitis cautum ne quis eumdem magtum intra decem annos caperet.*" cp. X. 13. Plutarch (*Marius,* XII.) remarks that this law was disregarded in the case of Marius. See Mommsen, *Hist. Rom.* B. II. c. iii. The *lex Villia Annalis* (*U. C.* 574.) fixed the age at which a citizen became eligible for the higher Magistratus (*Dict. Antiq. s. v.*).

oenus—escunt. archaic for *unus* and *erunt.* §. 10. *n.*

ave sinistra. The technical term was **dicere** *Dictatorem:* there is apparently great uncertainty in the significance of the words **laevus** and **sinister** (See Conington *ad* Virg. *Georg.* IV. 7.): an *omen sinistrum,* although generally 'propitious,' being sometimes understood in the contrary sense. This confusion has been variously accounted for: (1) by assuming that it is owing to the encroachment of Greek customs: (2) that, because an *auspicium sinistrum* was simply '*ratum,*' the propitiousness or unpropitiousness depended upon the nature of the inquiry: *e. g.* if the question in doubt was conceived in the form "Shall I go?" *sinistrum* would be favourable for the journey; but if it was "Is there danger in my going?" *sinistrum* would be inauspicious. cp. *de Divin.* II. xxxix. 81.; Horace, III. *Od.* xxvii.

magister. cp. *de Rep.* I. XL. 63. "*Dictator ab eo appellatur, quia dicitur, sed in nostris libris* (*auguralibus*) *vides eum, Laeli, Magistrum populi appellari.*" Moser.

equitatumque. Orelli. MSS. *equitatem cumque.* According to Turneb. the *Magister Equitum* is assigned the same powers as the Praetor, because he bore the same relation to the Dictator as the Praetor to the Consul. The **Magister Eq.** had also judicial functions like the Praetor: cp. *Philipp.* II. xxv. 62.

Ast quando consules magisterve populi nec erunt, reliqui magistratus ne sunto: auspicia patrum sunto: ollique ec se produnto, qui comitiatu creare consules rite possiet.

Imperia, potestates, legationes, cum senatus creverit populusve iusserit, ex urbe exeunto, duella iusta iuste gerunto, sociis parcunto, se et servos continento, populi sui gloriam augento, domum cum laude redeunto.

Rei suae ergo ne quis legatus esto.

Plebes quos pro se contra vim auxilii ergo decem creassit, ei tribuni eius sunto, quodque ii prohibessint quodque plebem rogassint, ratum esto: sanctique sunto neve plebem orbam tribunis relinquunto.

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consules—ne sunto. Halm and Vahlen "*praeeunte Feldhuegel.*" MSS. A. B. *consulis est magistratusve.* Huschke and Christ would transpose **reliqui—sunto,** making this sentence follow **disceptator.** The sense of the passage, as Feldh. explains it, is that in the absence of a Dictator or Consul, who alone could properly hold *comitia consularia* (See Ramsay, *R. A. maiora auspicia*), the other magistratus should surrender their offices and consequently their *auspicia;* which would then fully revert to the Patrician Senators. The Senate having thus regained full possession of the *auspicia* would duly appoint an *interrex*, for the purpose of holding *comitia* for the election of Consuls: cp. *Epist. ad Brut.* I. v. 4. "*Dum enim unus erit patricius magistratus, auspicia ad patres redire non possunt.*"

ec se—possiet.. Halm after Buecheler. MSS. A. *hecse;* A. *possint* B. *possim.* Throughout these laws we have a curious mixture of the archaic and the modern: cp. II. §. 18. (*e. g.* **nec** = *non*, **ec** = *ex*, **oe**=*u*): in **possiet** for *possit* we see one of the traces of an Optative in Latin.

Imperia, pot. 'abstr. for concrete.' *i. e.* "*Imperatores, Magistratus civiles, Legati.*" Wyttenb. For **servos** Halm adopts the conj. *suos;* but cp. Juvenal, *Sat.* VIII. 127. *foll.* **legatus.** §. 18. *n.*

auxilii. The interposition of a Tribune was technically so called: "*Vincebatur consulare imperium tribunicio auxilio.*" Livy, III. 30. cp. §. 16. **creassit ei.** Vahlen from MSS. *creassit et.* (MSS. frequently confuse **et** and **ei.** Madvig, *Advers.* I. p. 25.).

rogassint. *Plebiscita*, originally mere "resolutions of the Plebs," acquired the force of "*leges*" by the following successive laws: (1) **Valeria Horatia** (*U. C.* 305); (2) **Publilia** (*U. C.* 415); (3) **Hortensia** (*U. C.* 468). The inviolability of the Tribune's person (**sancti**) and the perpetuity of the office (**neue pleb.**) were secured by the **Valeria Horatia** and by a *lex* **Duilia,** passed in the same year. (Dict. Antiq. *comitia tributa.*)

orbam. *i. e.* the Tribunes are to hold the elections for their successors, before vacating office. Wyttenb. cp. Livy, III. 55.

10. Omnes magistratus auspicium iudiciumque habento, exque is senatus esto: eius decreta rata sunto, ast potestas par maiorve prohibessit, perscripta servanto.

Is ordo vitio vacato, ceteris specimen esto.

Creatio magistratuum, iudicia populi, iussa vetita cum suffragio cosciscentur, optumatibus nota, plebi libera sunto.

IV. Ast quid erit, quod extra magistratus coerari oesus sit, qui coeret populus creato eique ius coerandi dato.

Cum populo patribusque agendi ius esto consuli, praetori, magistro populi equitumque eique, quem patres produnt consulum rogandorum ergo; tribun-

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§. 10. **exque is.** §. 27. *i. e.* those who either hold or have held office: the arbitrary selection by the Censors (restricted by the *lex Ovinia*, which obliged them to enrol all who had held Curule offices) is thus abolished. (Mommsen, *Hist. Rom.* B. II. c. 3.).

rata sunto. §. 28. *n.* A measure might be vetoed, either by a Tribune or by any Magistrate of equal authority (*par maiorve*) with the proposer; in which case the Senate might order it to be placed on record as an expression of its judgment (*auctoritas*) (Dict. Antiq. *Stus auct.*). Halm brackets the passage, **ast—servanto,** as a gloss.

Creatio. See §. 35. **A lex Gabinia** (*U. C.* 615.) introduced the ballot at elections: a **Cassia** (*U. C.* 617.) extended it to criminal trials (*iudicia*): and a **Papiria** (*U. C.* 623.) to legislation (*iussa*). For **suffragio cosc.** MSS. have *suffragio eosc.* With **nota** understand **suffragia,** see §. 38.

Ast quid. Goerenz maintains that, in such cases, **ast** = *at si;* but, as Moser observes, the conditional force is not contained in the conjunction, but is understood from the context. (See Madvig, *L. G.* §. 442. Obs. 2.).

coerari. Taurell, **coeratore** Turneb., MSS. A. *coherario esus.* (For construction, see Madvig, *L. G.* 266.) For the form *oe* (cp. *oenus, oesus, ploera*), which is a weaker form of *oi* (found in the older inscriptions), see Ramsay (*prolegg.* to Plautus, *Mostellaria.*) and Peile (Grk. and Lat. Etymol. '*Latin Diphthongs*'). Turnebus mentions the '*cura rei frumentariae,*' entrusted by the Senate (*U. C.* 697.) to Pompeius, as an instance of such extra-magisterial charges.

agendi ius. Although only the higher *Magistratus* had the right to hold and to address public assemblies, yet private individuals might also obtain a hearing (§. 11.) by appealing to the president or through the intervention of a tribune. (Ramsay, *R. A.* '*comitia*'). **quem produnt,** *i. e.* the '*interrex.*'

isque, quos sibi plebes rogassit, ius esto cum patribus agendi: idem ad plebem quod oesus erit ferunto.

Quae cum populo quaeque in patribus agentur, modica sunto.

11. Senatori, qui nec aderit, aut causa aut culpa esto: loco senator et modo orato, causas populi teneto.

Vis in populo abesto. Par maiorve potestas plus valeto. Ast quid turbassitur in agendo, fraus actoris esto. Intercessor rei malae salutaris civis esto.

Qui agent, auspicia servanto, auguri publico parento, promulgata, proposita, in aerario cognita agunto, nec plus quam de singulis rebus semul consulunto, rem populum docento, doceri a magistratibus privatisque patiunto.

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rogassit. Properly, the presiding magistrate was said *rogare* (*populum legem*): **plebes** was said *creare;* hence Bake conj. **creassit.** Vahlen, however, thinks that *creare* and *rogare* are occasionally synonymous: cp. *ad Attic.* IX. ix. 3.

§. 11. **Senatori cet.** See §§. 40—42.

turbassitur. A passive formed from fut. *turbasso:* cp. *mercassitur, iussitur,* found in Varro and in ancient laws. (See Roby, *L. Gr.* Vol. I., Wordsworth, *Frag.*)

fraus. "The holder of the assembly shall be responsible." MSS. have *auctoris:* for **fraus** = *culpa* Bake cp. *pro Caelio,* XXIV. 59.

in aerario. Halm, following Mommsen, connects with **cognita.** Before that a measure was submitted at the *Comitia* it must have been posted in a public place *per trinundinum, i. e.* for seventeen days: as the Forum was probably the place where these things were posted (*promulgata*), Manutius conj. *in foro;* but, as the *Ærarium* was the proper depository for all records, it is probable that notices of measures would be deposited there, as well as laws. For **cognita** Gruter conj. *condita.* Vahlen quotes the Scholiast, *pro Sestio,* LXIV. 135. "*Licinia et Junia Coss. auctoribus Licinio Murena et Junio Silano perlata illud cavebat, ne* **clam aerario** *legem ferri liceret, quoniam leges in aerario condebantur.*" **proposita** Bake thinks a gloss of **promulgata.**

semul. an old form of *simul* (cp. Plaut. *Ps.* IV. 2, 55.) restored by Halm from MSS. *semel.* A law passed without discussion of its several clauses was said "*per saturam ferri;*" this was forbidden by a *lex* **Caecilia Didia** (*U. C.* 656.). cp. *pro Domo,* XX. 53.

doceri. §. 10. *n.* cp. *ad Attic.* IV. 2. "*cum subito ille in contionem ascendit quam Appius ei dedit.*" Turneb. **Privilegia.** §. 44. *n.*

Privilegia ne inroganto: de capite civis nisi per maximum comitiatum ollosque, quos censores in partibus populi locassint, ne ferunto.

Donum ne capiunto neve danto neve petenda neve gerenda neve gesta potestate. Quod quis earum rerum migrassit, noxiae poena par esto.

Censores fidem legum custodiunto: privati ad eos acta referunto nec eo magis lege liberi sunto.

Lex recitata est: discedere et tabellam iubebo dari.

V. 12. *Q.* Quam brevi, frater, in conspectu posita est a te omnium magistratuum discriptio, sed ea paene nostrae civitatis, etsi a te paulum adlatum est novi. *M.* Rectissime, Quinte, animadvertis. Haec est enim, quam Scipio laudat in libris *nostris* et quam maxime probat temperationem rei publicae, quae effici non potuisset nisi tali discriptione magistratuum. Nam sic

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de capite. §. 45. No charge affecting the civic status (*caput*) could properly be tried except by the *Comitia Centuriata*; but, for the sake of convenience, this power was wont to be delegated to special commissioners, *Quaestores*. (Ramsay, *R. A. iudicia pub.ica.*, Long, *Rom. Rep.* Vol. II. c. 28.). **partibus.** *i. e. classibus et centuriis.*

Donum. Such laws, as Turneb. reminds us, were the *leges de* **ambitu, pecuniis repetundis** and the **Cincia Muneralis.**

quod quis earum. For the gender of *quod*, Feldh. comp. *de Div.* I. lii. 119. "*earum rerum utrumque a corde proficisci.*"

fidem legum. Madvig, MSS. *fidem legem.* §. 46.

Privati. *i.e.* "*qui magistratu abierunt.*" Ernesti. §. 47. So, at Athens, every public officer, on the expiration of his term of office, had to submit his accounts to a board of audit. (Dict. Antiq. εὔθυνοι.)

discedere. After a measure had been sufficiently discussed, the presiding Magistrate called upon the people to separate (**discedere,** "*i. e. in suam quisque tribum.*" Wagner.) for the purpose of receiving their ballots and voting.

§. 12. **discriptio.** Halm. MSS. A. B. **descriptio.** §. 7. *n.* Vahlen thinks the change unnecessary, as *compositio* is used as synonymous, shortly afterwards, and the meaning 'constitution or plan' is just as appropriate as 'classification or distribution.'

libris nostris. Huschke. MSS. *libris et.* Most editors *libris illis* after Turneb. cp. I. §. 20.; but *nostris* (written *n. ris*) would be more readily absorbed by **libris.** The allusion is to *de Rep.* II. 23.

potuisset nisi. *Vulg.* Does not the MSS. *potuisse* point to an original **potuit sine?** *si* and *nisi* are frequently confused in MSS. (Feldhuegel, *ad* II. §. 47., p. 210), so that the origin of *nisi* is easily accounted for.

habetote, magistratibus iisque, qui praesint, contineri rem publicam et ex eorum conpositione, quod cuiusque rei publicae genus sit, intellegi. Quae res cum sapientissime moderatissimeque constituta esset a maioribus nostris, nihil habui, saltem non multum, quod putarem novandum in legibus. 13. *Att.* Reddes igitur nobis, ut in religionis lege fecisti admonitu et rogatu meo, sic de magistratibus, ut disputes, quibus de causis maxime placeat ista discriptio. *M.* Faciam, Attice, ut vis, et locum istum totum, ut a doctissimis Graeciae quaesitum et disputatum est, explicabo et, ut institui, nostra iura attingam. *Att.* Istud maxime exspecto disserendi genus. *M.* Atqui pleraque sunt dicta in illis libris, quod faciendum fuit, cum de optuma re

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praesint. Bake defends the conjunctive, on the ground that this is not a mere periphrasis and amplification of **magistrati.**; but might be expressed, in *orat. recta*, by *iis qui praesint continetur r. p.* "those who in each case &c." (Madvig, *L. G.* §. 369. obs. 1.).

saltem non. Halm. MSS. *sane non.* Madvig *sane aut non.* Görenz and others *habui sane, non modo multum. i.e.* "I had absolutely (**sane** (I. §. 1.) nothing, I do not say not much." Acc. to Long (*excursus ad Cicero. Verr.*) **non modo** = 'not by measure,' *i. e.* 'I do not limit or qualify my statement.' Here the negation contained in the preceding **nihil** would apply equally to **multum.** However, Quintus's '**paulum novi**' seems to expect the answer *saltem non multum*, rather than an absolute disclaimer.

§§. **18—49.** The premonition that much of this subject (*de magistr.*) has been forestalled in Cicero's "Republic," is a hint that we must not expect a full discussion of all the clauses of the law; accordingly we find many gaps, probably more than can be plausibly attributed to the ravages of time. Indeed, some of the clauses (*e. g.* **liberae legationes, privilegia**) seem to have been given a special prominence, only because they furnish a text for personal explanations and self-glorification.

§. **13. Reddes.** II. §. 34. *n.* Halm thinks **ut disputes** a gloss. Vahlen and Feldh. explain it as an *anacoluthon*; the sentence being continued, after the parenthesis (**ut—magistratibus**) as if *facies* not *reddes*, had preceded: the answer of Marcus, **faciam** not *reddam*, confirms this explanation.

illis libris. cp. I. §. 20. Halm brackets **de magistratibus** as a gloss. *Theophrasto.* II. §. 15. As nothing is known of a Stoic writer named Dion, many Editors have adopted Turnebus' conj. **Diogene.** Diogenes Babylonius, a pupil of Chrysippus, was sent by the Athenians as a legatus to Rome along with Carneades (*U. C.* 599.). (See Preller, *H. P.* §. 428.).

publica quaereretur: sed huius loci de magistratibus sunt propria quaedam, a Theophrasto primum, deinde a Dione Stoico quaesita subtilius.

VI. 14. *Att.* Ain tandem? etiam a Stoicis ista tractata sunt? *M.* Non sane nisi ab eo, quem modo nominavi, et postea a magno homine et in primis erudito, Panaetio. Nam veteres verbo tenus acute illi quidem, sed non ad hunc usum popularem atque civilem, de re publica disserebant: ab hac familia magis ista manarunt Platone principe. Post Aristoteles inlustravit omnem hunc civilem in disputando locum Heraclidesque Ponticus profectus ab eodem Platone. Theophrastus vero, institutus ab Aristotele, habitavit, ut scitis, in eo genere rerum, ab eodemque Aristotele doctus Dicaearchus huic rationi studioque non defuit. Post a Theophrasto Phalereus ille Demetrius, de quo

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§. 14. **Panaetio.** Panaetius of Rhodes, friend of the younger Africanus, author of a treatise περὶ τοῦ καθήκοντος the original of Cicero's *de Officiis*. (Preller, *H. P.* §. 429.)

veteres. The old Stoics, Zeno, Cleanthes &c. I. §. 36. *n.*—**illi quidem** I. §. 6. *n.*

verbo tenus. "so far as mere words go:" opp. to '*re et usu.*' Bake explains "*i. e. tantum, quantum dialecticae subtilitati satisfaciat.*" The dialectic subtlety of the Stoics is contrasted with the more practical theories of the Peripatetics. Van Lynden comp. Plutarch (*de Repugnantiis Stoic.* 1033. B.).

hac familia. "*quæ nunc indicabitur,*" Bake. Academics and Peripatetics are regarded as one family, I. §. 55. Others think that **hac** = *nostra* (I. §. 8. *n.*), Cicero speaking as an Academic: cp. I. §. 53., *de N. D.* I. 5. Scheffer conj. **ab Academica fam.**

in disputando. "*i. e. hanc omnem philosophiae partem, quae ad civitates pertinet.—per metonymiam pro re* (**philosophia**) *ponitur actio* (**disputare**) *cum re coniuncta.*" Feldh. cp. I. §. 36.

Heraclides. of Heraclea in Pontus, a pupil of Plato, wrote a treatise περὶ νόμων. cp. *Tuscul.* V. iii. 8.

habitavit. cp. *de Orat.* II. xxxviii. 160. "*Illi autem qui hoc solum colendum ducebant* **habitarunt** *in hac una ratione tractanda.*" Davies.

Dicaearchus. of Messana in Sicily, Philosopher, Historian and Geographer. (Preller, *H. P.* §. 357.).

a Theophrasto. Bake, who would omit both **institutus** and **doctus** above, thinks that the preposition is used here as in *de Off.* III. xxxiii. 116. "*atqui* **ab Aristippo** *Cyrenaici*" (οἱ ἀπὸ Ἀριστίππου); others understand *doctus*.—**supra.** II. §. 64.

feci supra mentionem, mirabiliter doctrinam ex umbraculis eruditorum otioque non modo in solem atque in pulverem, sed in ipsum discrimen aciemque produxit. Nam et mediocriter doctos magnos in re publica viros et doctissimos homines non nimis in re publica versatos multos commemorare possumus: qui vero utraque re excelleret, ut et doctrinae studiis et regenda civitate princeps esset, quis facile praeter hunc inveniri potest? *Att.* Puto posse et quidem aliquem de tribus nobis: sed perge, ut coeperas.

VII. 15. *M.* Quaesitum igitur ab illis est, placeretne unum in civitate esse magistratum, cui reliqui parerent, quod exactis regibus intellego placuisse nostris maioribus. Sed quoniam regale civitatis genus, probatum quondam, postea non tam regni quam regis vitiis repudiatum est, nomen tantum videbitur regis repudiatum, res manebit, si unus omnibus reliquis magistratibus imperabit. 16. Quare nec ephori Lacedaemone sine causa a Theopompo oppositi regibus nec apud nos consulibus tribuni. Nam illud quidem ipsum, quod in iure positum est, habet consul, ut ei reliqui magistratus omnes pareant excepto tribuno, qui post

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in pulverem. Ernesti omits *in*; but Bake remarks that **atque** by no means so closely connects as—**que**, in **discrimen aciemque**. (Madvig, *L. G.* §. 470.). The shady seclusion of the Academy and Lyceum is contrasted with the dust and strife of the '*bema*:' cp. *Brut.* IX. 37.

Puto. cp. I. §. 5. and *de Off.* I. i. 3., where Cicero places himself above Demetrius.

§. 15. **unum—magtum.** 'one magistracy,' whether held by one or more individuals. Wyttenbach. See §. 8. *n.*

regis vitiis. Vulg. Halm conj. **regiis**, MSS. have *regnis*. cp. *de Rep.* I. XL. 62. "*Tu non vides unius importunitate et superbia Tarquinii nomen huic populo in odium venisse regium.*"

§. 16. **Theopompo.** King of Sparta, of the Eurypontid dynasty (*flor.* during 1st. Messenian war). cp. *de Rep.* II. xxxiii. 58.; Aristotle, *Pol.* VIII. (V.). 11. (Dict. Antiq. *Ephori.*)

in iure positum. "in respect of powers." cp. §. 8. "*regio imperio.*"

exstitit, ne id, quod fuerat, esset. Hoc enim primum minuit consulare ius, quod exstitit, ipse qui eo non teneretur, deinde quod attulit auxilium reliquis non modo magistratibus, sed etiam privatis consuli non parentibus. 17. *Q.* Magnum dicis malum; nam ista potestate nata gravitas optimatium cecidit convaluitque vis multitudinis. *M.* Non est, Quinte, ita. Non ius enim illud solum superbius populo et violentius videri necesse erat, quo postea quam modica et sapiens temperatio accessit,† convertem lex in omnis est * * *

VIII. 18. **Domum cum laude redeunto**; nihil enim praeter laudem bonis atque innocentibus neque ex hostibus neque a sociis reportandum. Iam illud apertum est profecto, nihil esse turpius quam quemquam legari nisi rei publicae causa. Omitto quem ad modum isti se gerant atque gesserint, qui legatione

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quod fuerat. "*Ne regia potestas quae urbe exacta est, in consulibus remaneret.*" Turneb. MSS. have **fuerit.**

§. 17. **ius illud.** *sc.* '*consulare.*' **solum.** *i. e.* without the tribunes. Vahlen edits: *Non ius enim—necesse erat? quo postea—accessit.* * * * * *converte, lex in omnes est.* The passage is generally edited—*populo sed violentius—conversa lex in omnes est.* which Turnebus explains thus: before the Tribunate was established, the Consuls, being chosen from the *Optimates*, would favour that order; but, afterwards "*omnes teneri legibus coeperunt, cum Tribunitiae rogationes, plebisque scita pro lege essent.*" Halm thinks with Davies that it is best to abstain from attempts at emendation; as it is certain that there is a great gap here but uncertain where it commences. At any rate we find no explanation of the clauses of the law until we come to **Domum cet.** §. 9.

§. 18. **redeunto.** Victor. MSS. A.B. *pede uno.* Some old editions give **repedandum** from inferior MSS. Festus mentions an old verb **repedare** = *recedere.* Bake observes that Cicero enforced this precept by his own example: cp. *ad Famil.* II. xvii. 4.

legari. Senators leaving Italy on private business were frequently invested with the title of *legatus*, which entitled them to certain privileges in the provinces: *e. g.* Cicero (*ad Famil.* XII. 21.) mentions that he used to assign lictors to senators travelling in his province: how persons engaged in collecting debts &c. would be likely to abuse these privileges, we may gather from the account which Cicero (*ad Attic.* VI. 2.) gives of the proceedings of Scaptius, a friend and agent of the 'patriot' Brutus. For **isti** cp. II. §. 2.

hereditatis aut syngraphas suas persecuntur—in hominibus est hoc fortasse vitium—, sed quaero, quid reapse sit turpius quam sine procuratione senator legatus, sine mandatis, sine ullo rei publicae munere? Quod quidem genus legationis ego consul, quamquam ad commodum senatus pertinere videbatur, tamen adprobante senatu frequentissimo, nisi mihi levis tribunus plebis tum intercessisset, sustulissem. Minui tamen tempus et, quod erat infinitum, annuum feci. Ita turpitudo manet diuturnitate sublata. Sed iam, si placet, de provinciis decedatur in urbemque redeatur. *Att.* Nobis vero placet, sed his, qui in provinciis sunt, minime placet.
19. *M.* At vero, Tite, si parebunt his legibus, nihil erit iis urbe, nihil domo sua dulcius, nec laboriosius molestiusque provincia.

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hereditates. Provincials frequently bequeathed money to leading men at Rome, with a view to securing their interest for their natural heirs: cp. *de Off.* III. xviii. 73. and Mayor, *ad Philipp.* II. §. 40. According to Ernesti, the **syngrapha** was a kind of bond, in which the particulars of the transaction were set forth, signed by both parties, a copy of the instrument being retained by each; whereas the **chirographum** was merely an acknowledgment signed by the debtor alone.

hominibus. "the individuals." "*Superiora sunt hominum vitia, haec quae nunc commemoro rei ipsius, i. e. liberae legationis.*" Turneb. **reapse** contracted for *re eapse;* **ipse** itself is a compound of *is-pse* (= **pote** cp. *suapte.*), (Schweizer-sidler §. 116.).

videbatur. Ernesti. MSS. *videatur;* there could be no doubt as to the advantage to the Senate, and, as Bake remarks, **quamquam** does not *per se* affect the mood (Madvig, *L. G.* §. 361. 2).

levis. Because of an erasure *leius* in MS. A., Halm thinks with Moser that *levis* has taken the place of the name (? Labienus) of the Tribune. Vahlen and Bake think that **levis** is correct; and, if we had the name, the title would, I think, have been superfluous. Cicero alluding to the *liberae legationes* (*ad Attic.* XV. xi. 4.) observes: "*et habent, opinor, liberae legationes definitum tempus lege Julia.*" Ernesti. (*Clav. Cic.*) thinks that this *lex* **Julia** formed a clause of the **Julia de Provinciis**; Long (Hist. Vol. III. c. xix. p. 443.) thinks that it was included in the **Julia de Repetundis.**

minime placet. This is supposed to be a covert allusion to Cæsar's refusal to give up Gaul, *U. C.* 703

§. 19. **his legibus.** *i. e.* '*nostris*' I. §. 8. *n.* cp. Plato, *Rep.* VII. 520. D.

Sed sequitur lex, quae sancit eam tribunorum plebis potestatem, quae *est* in re publica nostra: de qua disseri nihil necesse est. *Q.* At me hercule ego, frater, quaero, de ista potestate quid sentias. Nam mihi quidem pestifera videtur, quippe quae in seditione et ad seditionem nata sit: cuius primum ortum si recordari volumus, inter arma civium et occupatis et obsessis urbis locis procreatum vidimus. Deinde cum esset cito ablegatus tamquam ex XII tabulis insignis ad deformitatem puer, brevi tempore nescio quo pacto recreatus multoque taetrior et foedior renatus est.

IX. Quid enim ille non edidit? qui primum, ut impio dignum fuit, patribus omnem honorem eripuit, omnia infima summis paria fecit, turbavit, miscuit:

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urbis locis. Livy (II. 32.) states, as the commonly received tradition, that the first secession was to the *mons sacer*, on the other side of the Anio; but adds that, according to Piso, it was to the Aventine: cp. Livy, VII. 40. (Lewis, *R. H.* c. XII. §. 17.).

procreatum. an instance of the *constr. ad intellectum.* Manutius conj. **procreatam**; but the attraction, of the preceding **ortum** and the following **puer**, is so strong that the feminine would seem out of keeping.

ablegatus. "put out of the way:" an old conjecture. MSS. have *legatus:* for which **necatus** (Puteanus), **letatus** (Gruter), **leto datus** (Orelli, cp. II. §. 22.) and other emendations have been suggested. The allusion is supposed to be to the reign of the Decemviri: "*per quod tempus et magistratus reliqui et tribuni plebis nulli erant.*" Wyttenb. cp. Livy, III. 32.

insignis. children born with misshapen bodies were called **insignes** or **insigniti**: Plautus, *Mil.* III. i. 127. Turneb. For the practice of drowning such monstrosities, Davies quotes Seneca, *de Ira*, I. 15.

taetrior. "loathsome:" an epithet more particularly applicable to objects ot taste or smell. (Munro, *ad Lucret.* III. 596.)

Quid enim. Madvig. MSS. *quem.* As Madvig explains, the interrog. has the force of a negation; so that **Quid enim—non?** = nihil—non. (So in Greek τί—οὐκ; = πάντα) cp. *de Fin.* II. xxii. 73. Bake prefers **Quae**: "*i. e. omnia genera scelerum edidit.*"

impio—patribus. the metaphor is continued from **puer**, with a play upon **patribus**: "*pietas* (natural affection) *maxime erga parentes censebatur.*" Bake.

omnia. "put all things on a level, the highest with the lowest;" **infima summis** is added *per epexegesin* of **omnia paria fecit.** Feldh. cp.

cum adflixisset principum gravitatem, numquam tamen conquievit. 20. Namque ut C. Flaminium atque ea, quae iam prisca videntur propter vetustatem, relinquam, quid iuris bonis viris Tiberi Gracchi tribunatus reliquit? etsi quinquennio ante Decimum Brutum et P. Scipionem consules—quos et quantos viros!—homo omnium infimus et sordidissimus, tribunus pl. C. Curiatius in vincula coniecit, quod ante factum non erat. C. vero Gracchi tribunatus iis sicis, quas ipse se proiecisse in forum dixit, quibus digladiarentur inter se cives, nonne omnem rei publicae statum permutavit? Quid iam de Saturnino, Sulpicio, reliquis dicam? quos ne

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Livy, IV. I. Görenz thinks "*verborum ipsorum turbulentiori profluxu auctorem turbas istas imitatum esse.*"

cum adflixisset. We should naturally expect something to balance **primum**, in this sentence; but instances of similar changes in structure are not wanting: Moser comp. *de Off.* I. xiv. 44.; *Catil.* II. x. 21. For **principum** cp. I. §. 43.

§. 20. **Flaminium.** cp. *Brut.* XIV. 57. "*C.* **Flaminius**, *is qui Tr. Plebis* (*U. C.* 522.) *legem de agro Gallico et Piceno viritim dividendo tulerit, qui Consul apud Trasimenum sit interfectus.*" Mommsen calls him, the first Roman demagogue by profession. (*Hist. Rom.* B. III. c. xi.).

Gracchi. Tiberius Sempronius Gracchus (*Tr. Pleb.* 621.) when the Optimates (Cicero's *boni*) had prevailed upon Octavius to veto his agrarian law, proposed to the people that his colleague should be deprived of his Tribuneship. §. 24. (Long, Vol. I. c. xii.).

Curiatius. Tr. Pleb. *U. C.* 616. Livy (*Epit.* LV.) says that when these Consuls were levying troops: "*Tribuni Plebis, quia non impetrarent, ut sibi denos, quos vellent, milites eximere liceret, Consules in Carcerem duci iusserunt.*" (Long, Vol. I. c. vi.). Bake would omit **quod ante— —erat**; Livy (*Epit.* XLVIII.) says that the same thing happened to the Consuls, L. Licinius Lucullus and A. Postumius Albinus (*U. C.* 603.) cp. Livy, IV. 26, II. 56.

Gracchi tribunatus. Halm. *Gracchi ruinis et iis siciis* (*inscitiis* B.) MSS.; *Gracchus ruinis et sicis iis* Turneb. and Orelli; Turneb. conj. *runis* (**runa** "a javelin"). Mommsen (B. IV. c. iii.) thinks that Gracchus used this expression with especial reference to his judiciary reforms, by which he transferred the *iudicia* from the Senators to the Equites. For **permutavit** Madvig would read **perturbavit**, since Cicero elsewhere uses *permuto* with the meaning "exchange."

Saturnino Sulpicio. Görenz. *Saturnini supplicio* MSS. L. Appuleius Saturninus (*Tr. Pleb.* 652. 4.) and P. Sulpicius Rufus (*Tr. Pleb.* 666.). The former by his violent proceedings, compelled Marius, who had

depellere quidem a se sine ferro potuit res publica. **21.** Cur autem aut vetera aut aliena proferam potius quam et nostra et recentia? Quis umquam tam audax, tam nobis inimicus fuisset, ut cogitaret umquam de statu nostro labefactando, nisi mucronem aliquem tribunicium exacuisset in nos? quem cum homines scelerati ac perditi non modo ulla in domo, sed nulla in gente reperirent, gentes sibi in tenebris rei publicae perturbandas putaverunt. Quod nobis quidem egregium et ad inmortalitatem memoriae gloriosum, neminem in nos mercede ulla tribunum potuisse reperiri, nisi cui ne esse quidem licuisset tribuno. **22.** Sed ille quas strages edidit! eas videlicet, quas sine ratione ac sine ulla spe bona furor edere potuit inpurae beluae mul-

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favoured the Appuleian reforms, to put down by force his former confederate: the latter, by his proposal to transfer the command of the Asiatic war from Sulla to Marius precipitated the Mario—Sullan civil war. (Mommsen, B. IV. c. VI, VII.).

§. 21. **Quis umquam.** Görenz conj. *quis, inquam,* Bake *quisquamne?* in order to avoid the repetition of *umquam;* but the redundant "ever" is not without parallel in our own language: Vahlen compares *pro Sestio,* XIII. 30.

nobis inimicus. Quintus identifies himself with Marcus (*nostra, nobis, nos*); Bake cp. *Divin.* I. xxviii. 59. and, for the metaphor (**mucronem**), Livy, III. 55. "*tribuniciis rogationibus* **telum** *acerrimum datum est.*"

non modo ulla. Here the negation, in the following *nulla,* by anticipation affects equally the preceding clause. §. 12. *n.*

gentes—perturbandas. Clodius, as a Patrician, was not eligible as Tribune; accordingly he caused himself to be adopted by a Plebeian, P. Fonteius. Not only, as Cicero says (*pro* Domo, XIII—XV.), were the "*sacra gentilitia*" outraged by such a proceeding (II. §. 42); but the adoption itself was informal, the *comitia curiata* having been held for that purpose, notwithstanding the *obnuntiatio* of the Consul Bibulus. (Long, *Decline of Rom. Rep.* Vol. III. c. xix.).

in tenebris. "in the dark days," "*i. e. in dissensione civium et dissidio magistratuum.*" Turneb. Bake compares *ad Div.* IV. iii. 2.

§. 22. **furor edere—furoribus.** Vulg. MSS. have *futura reddere—impure belue* (in an erasure, A). Bake objects to the awkward phrase *furor infl. furoribus.* Feldh. says "*Quod autem furor multorum furoribus inflammari dicitur, Clodii furorem multorum sociorum furoribus etiam augeri significatur.*" To my mind **futura** seems a manifest gloss to explain **spe bona**; and I would read *spe bona,* **edere** *potuit* **inpura**

torum inflammatus furoribus. Quam ob rem in ista quidem re vehementer Sullam probo, qui tribunis plebis sua lege iniuriae faciendae potestatem ademerit, auxilii ferendi reliquerit, Pompeiumque nostrum ceteris rebus omnibus semper amplissimis summisque ecfero laudibus, de tribunicia potestate taceo; nec enim reprehendere libet nec laudare possum.

X. 23. *M.* Vitia quidem tribunatus praeclare, Quinte, perspicis, sed est iniqua in omni re accusanda praetermissis bonis malorum enumeratio vitiorumque selectio. Nam isto quidem modo vel consulatus vituperari potest, si consulum, quos enumerare nolo, peccata collegeris. Ego enim fateor in ista ipsa potestate inesse quiddam mali, sed bonum, quod est quaesitum in ea, sine isto malo non haberemus.—Nimia potestas est tribunorum plebis—Quis negat? sed vis populi multo saevior multoque vehementior, quae, ducem quod habet, interdum lenior est, quam si nullum haberet. Dux enim suo *se* periculo progredi cogitat, populi impetus periculi rationem sui non habet. 24. At aliquando

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belua *multorum* **inflammatis** *furoribus*. cp. §. 26. "*multitudinis furentis* **inflammata invidia**," and *pro Sestio*, XXXIV. 73. "*vim fuisse illam, flammam quassatae reip.*"

Sullam. The *lex* **Cornelia** deprived the Tribunes of their legislative functions, at the *Comitia Tributa*, and imposed considerable restrictions on the exercise of their right of *veto* (*ius intercedendi*) and of holding assemblies (*agendi cum populo*) (Long, Vol. II. c. xxviii., Mommsen, B. IV. c. x.). The Tribunician prerogatives were restored during the first Consulship of Pompeius (*U. C.* 684.).

ceteris. Ernesti conj. *in ceteris;* Bake remarks that the ablative has the force of *propter*. Feldh. compares III. §. 15. '*regis vitiis repudiatum est*' and other passages, (See Madvig, *L. G.* §. 256).

§. 23. **vituperari potest.** Halm after Feldh. **vituperabilis.** *Vulg.*

ista ipsa. Bake explains **ipsa**: "*per se, non consideratis exemplis singulorum* (*tribunorum*)."

suo se. MSS. omit *se;* for **quod** *habet* Halm prefers Bake's conj. *quom.*

§. 24. **At –Et quidem.** cp. 'Ἀλλὰ νὴ Δία—καί—γε. "But perhaps you will say—Yes! and." I. §. 6. *n.* According to Madvig, *et*

incenditur.—Et quidem saepe sedatur. Quod enim est tam desperatum collegium, in quo nemo e decem sana mente sit? Quin ipsum Ti. Gracchum non solum neclectus, sed etiam sublatus intercessor evertit. Quid enim illum aliud perculit nisi quod potestatem intercedenti collegae abrogavit? Sed tu sapientiam maiorum in illo vide. *Cum* concessa plebei est a patribus ista potestas, arma ceciderunt, restincta seditio est, inventum est temperamentum, quo tenuiores cum principibus aequari se putarent, in quo uno fuit civitatis salus. At duo Gracchi fuerunt. Et praeter eos quamvis enumeres multos licet; cum deni creentur, non nullos in omni memoria reperies perniciosos tribunos, leves etiam, non bonos, fortasse plures: invidia quidem summus ordo caret, plebes de suo iure periculosas contentiones nullas facit. 25. Quam ob rem aut exigendi reges

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quidem signifies that the speaker assents to an assertion, but adds a qualifying clause, either strengthening or disparaging that assertion. (*Emendatt.* p. 90. *de Fin.* I. x. 33.).

neclectus. Halm after Manutius. MSS. **nectus.** §. 20. *n.* cp. *Philipp.* II. xxii. 53. "*intercessio* **neglecta,** *ius tribunicium sublatum.*"

evertit. Vahlen. *fuerat* MSS., *fregerat* Bentley, *stravit* Feldh.: cp. *pro Milone*, XXI. 56. "*saepe spoliantem iam et exsultantem evertit et perculit.*" Vahlen compares the similar conjunction of the two verbs *evertit perculit*, in this passage.

intercedenti. Madvig. *intercedendi* MSS. This high-handed proceeding was suicidal; inasmuch as it rendered the nobles desperate, by depriving them of their favorite method of balking a troublesome reformer; and, at the same time, divested the Tribunate of its sacred and inviolable character. §. 20. *n.* (Long, Vol. I. c. xiii.).

Cum—potestas. Huschke restores this passage by the simple addition of **cum,** which would easily be absorbed by the following **con.** MSS. have: A. *concessa plebe ista patribus ista potestas.* B. *concesse plebe ista potestas.* Halm *concessa plebei a patribus ista potestate.*

creentur—plures. Vahlen's punctuation seems to give best sense; for the form, he compares *pro Milone*, XXXIV. 92. "*iam satis multa de causa, extra causam etiam nimis fortasse multa.*" "Some pestilent tribunes you will certainly find in all history: unsteady ones too, wanting in patriotism, possibly a larger number." MSS. have **creantur, nullos.** The ordinary punctuation gives *leves, etiam non bonos.* Halm conj. *leves etiam quam bonos fortasse plures.*

non fuerunt aut plebi re, non verbo danda libertas: quae tamen sic data est, ut multis praeclarissimis adduceretur, ut auctoritati principum cederet.

XI. Nostra autem causa, quae, optume et dulcissime frater, incidit in tribuniciam potestatem, nihil habuit contentionis cum tribunatu. Non enim plebes incitata nostris rebus invidit, sed vincula soluta sunt et servitia concitata, adiuncto terrore etiam militari. Neque nobis cum illa tum peste certamen fuit, sed cum gravissimo rei publicae tempore: cui *nisi* cessissem, non diuturnum beneficii mei patria fructum tulisset. Atque haec rei exitus indicavit. Quis enim non modo liber, *sed* servus libertate dignus fuit, cui nostra salus cara non esset? **26.** Quod

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§. 25. **multis praeclarissimis.** Some noun is apparently wanting: Seyffert conj. *rebus*, Bake and Feldh. *praeclaris institutis*, Madvig and Halm *vinclis*. For **adduceretur** MSS. A. B. have *addiceretur*, Wyttenbach conj. *adigeretur*. By **institutis** Bake thinks that such provisions as those in II. §. 30. and III. §. 27. are intended. For **principum** cp. I. §. 43. *n*.

incidit in. "came into collision with:" *i. e.* in the person of Clodius, as Görenz explains it. "*incidit in ea tempora, quibus illa potestas, per Pompeium restituta, vigebat.*" Bake. The reflections, which follow, are identical with those in the speech *pro Sestio*, where Cicero endeavours to explain his own conduct at this crisis. (Long, Vol. III. c. XXI.).

servitia concitata. Vahlen after Görenz; *incitata* MSS., which Halm retains, rejecting **incitata** after **plebes**. Vahlen compares *Acad. pr.* II. XLVII. 144. "*Quo enim spectat illud, cum artificia tolli quereris a nobis, nisi ut opifices* **concitentur**? *Qui si undique omnes convenerint facile contra vos* **incitabuntur**." cp. *ad Fam.* X. xxxiii. 4.; *pro Flacco*, VIII. 18. Of course **vincula, servitia** = *vincti* and *servi*.

adiuncto. Clodius asserted that he had Caesar, Crassus and Pompeius at his back: cp. *pro Sest.* XVII. 40., XIX. 42.

peste. Clodius himself is so called *pro Sest.* XVII. 39.; but Feldh. explains: "**peste** *sc. quam Clodius servitiis concitatis et vinclis solutis excitabat.*"

cui nisi. Halm, Görenz *ni*. Bake compares Cato's advice to Cicero ὑπεκστάντα τῷ καιρῷ πάλιν γενέσθαι σωτῆρα τῆς πατρίδος. (Plutarch, *Cato*.) cp. *pro Sest.* XXII. 49.

beneficii. Feldh. compares Cic. *Par.* IV. i. 29., where the suppression of Catiline's conspiracy is styled "*huius aeterni beneficii.*"

sed servus. MSS. A. B. omit *sed*; for **non modo** cp. §. 12. *n*.

si is casus fuisset rerum, quas pro salute rei publicae gessimus, ut non omnibus gratus esset, et si nos multitudinis furentis inflammata invidia pepulisset tribuniciaque vis in me populum, sicut Gracchus in Laenatem, Saturninus in Metellum, incitasset, ferremus, o Quinte frater, consolarenturque nos non tam philosophi, qui Athenis fuerunt, qui hoc facere debent, quam clarissimi viri, qui illa urbe pulsi carere ingrata civitate quam manere *in* inproba maluerunt. Pompeium vero quod una ista in re non ita valde probas, vix satis mihi illud videris attendere, non solum ei quid esset optimum videndum fuisse, sed etiam quid necessarium. Sensit enim deberi non posse huic civitati illam potestatem:

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si is casus. "if such had been the issue." Bake explains "*si ita cecidissent res quas gessimus.*" cp. *pro Milone,* XXX. 81. "*Si minus fortissimi viri virtus civibus grata cecidisset: magno animo constantique cederet ex ingrata civitate.*"

tribuniciaque vis. Görenz. *tribuniciaquis* MSS. *multitudinis vis f. infl. inv. pepulisset; si Tribunus aliquis in me.* Turneb.; Halm conj. *furentis vis—pepulisset et Tribunus aliquis;* because he thinks that **invidia** looks like an ablative. Feldh. explains **inflammata**: "*per Tribunos etiam aucta.*" cp. §. 22.

Laenatem. P. Popillius Laenas (Cos. *U. C.* 622.) having been an active member of the commission appointed to investigate the charges against the followers of Ti. Gracchus, was subsequently impeached (*U. C.* 631.) by Caius: probably on the charge that the investigation, being a *quaestio capitis,* was a violation of the right of appeal (*provocatio*) (Long, *Decline of R. R.* Vol. I. c. XVIII.).

Metellum. Q. C. M. Numidicus, the jealous opponent of Marius; when the Senators were required to swear to observe the agrarian law of Saturninus (*U. C.* 654.), Metellus obstinately refusing on the ground of its informality, was banished by an interdict. (Long, Vol. II. c. X.).

qui—debent. Halm brackets as spurious; but, as Bake and Feldh. observe, the present tense is regular, in speaking of extant books. Vahlen conj. **iubent**: cp. *ad Fam.* I. IX. 18. "*Id enim* **iubet** *idem ille Plato, quem ego vehementer auctorem sequor, tantum contendere in re publica, quantum probare tuis civibus possis: vim neque parenti nec patriae adferre oportere.*"

illa urbe. Bake prefers *hac,* thinking that Roman patriots are contrasted with Greek philosophers; but cp. *pro Sestio,* LXVII. 141., where Themistocles, Miltiades and Aristides are said not to have shrunk from opposing pernicious measures through fear of exile. For **manere in inproba** MSS. have *manere inprobam.*

deberi. cp. II. §. 7. Creuzer thinks that Livy, III. LII. 9., had

quippe quam tanto opere populus noster ignotam expetisset, qui posset carere cognita? Sapientis autem civis fuit causam nec perniciosam et ita popularem, ut non posset obsisti, perniciose populari civi non relinquere. Scis solere, frater, in huius modi sermone, ut transiri alio possit, dici "admodum" aut "prosus ita est." *Q.* Haud equidem adsentior, tu tamen ad reliqua pergas velim. *M.* Perseveras tu quidem et in tua vetere sententia permanes. *Att.* Nec me hercule ego sane a Quinto nostro dissentio, sed ea quae restant audiamus.

XII. 27. *M.* Deinceps igitur omnibus magistratibus auspicia et iudicia dantur: iudicia, ut esset populi potestas, ad quam provocaretur, auspicia, ut multos inutiles comitiatus probabiles inpedirent morae;

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this passage in mind: "*Novam inexpertamque eam potestatem eripuere patribus nostris, ne nunc, dulcedine semel capti, ferant desiderium.*"

perniciose populari. Such as Cæsar or Clodius: the celebrated "dishing of the Whigs" will recur to many.

admodum. Marcus playfully suggests that his hearers should express their assent according to the usual form in such dialogues.

Nec mehercule. Madvig. MSS. have *Nunc.* Before Madvig this passage was arranged thus: *Q.* **Nunc mehercule.** *Att.* **Ego sane** cet. For the conjunction of the two words **sane** and **hercule**, cp. II. §. 8. Feldh. remarks '**sane**' *concedentis,* '**hercle**' *confirmantis est.*" cp. I. §. 1. *n.*

§. 27. **iudicia, ut esset.** Görenz explains '*ita ut esset*' *i. e.* "with this provision that:" but possibly **potestas** is to be interpreted as in §. 6., 'Magistrate.' Wagner understands the passage thus: each Magistrate is to have judicial powers in his own department; public informations are not to be laid before the people, in the first instance, but before the proper Magistrate, "*ut libera sit potestas populi atque ad eam provocare possit damnatus.*"

auspicia. Before a meeting of *Comitia* was held, it was necessary that the Magistrate about to preside should have taken the auspices. No one therefore could preside unless he had the right to take the auspices. (Dict. Antiq. *auspicia*).

inpedirent. Not unfrequently a Magistrate stopped the proceedings of *comitia* held by a political adversary, by reporting that he heard thunder &c. (Dict. Antiq. *obnuntiatio*). Clodius endeavoured to get rid of these 'plausible obstructions' by the repeal of the *lex* **Ælia Fufia,**

saepe enim populi impetum iniustum auspiciis di immortales represserunt. Ex iis autem, qui magistratum ceperunt, quod senatus efficitur, populare *est* sane neminem in summum locum nisi per populum venire sublata cooptatione censoria. Sed praesto est huius viti temperatio, quod senatus lege nostra confirmatur auctoritas. **28.** Sequitur enim: **eius decreta rata sunto.** Nam ita se res habet, ut, si senatus dominus sit publici consilii quodque is creverit defendant omnes, et, si ordines reliqui principis ordinis consilio rem publicam gubernari velint, possit ex temperatione iuris, cum potestas in populo, auctoritas in senatu sit, teneri ille moderatus et concors civitatis status, praesertim si proximae legi parebitur. Nam proximum est: **is ordo**

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which provided that a Magistrate might watch for inauspicious signs (*servare de Caelo*) on the day on which an assembly was being held. (Long, Vol. III. c. xxi.)

senatus efficitur. Creuzer conj. *conficitur;* but Bake observes that **conficere,** ('complete, make up the full number') would not properly be said of the Senate; since the number of its members would necessarily vary from time to time, as the ex-Magistrates would not be a constant number.

populare est. Turneb. *popularem* MSS. "*i. e.* **populare** for **populare e.**" Halm and Feldh. **Sane—sed.** I. §. I. *n.* Cicero thinks it necessary to apologise for an arrangement which made the Senate depend ultimately upon the elections: **popularis,** like δημοτικός and our 'popular,' derives its colour entirely from the light in which the speaker views it; here it has the force of 'democratic.'

cooptatione. §. 10. *n.* properly *cooptatio* was the election of a colleague by the members of a corporation (Dict. Ant. *s. v.*). Bake thinks that in Cicero's time, owing to the suspension of the office of Censor, (§. 7. *n.*) the Senate was recruited from ex-Magistrates alone, cp. *pro Sestio,* LXV. 137. **viti.** corrected *vitii* in A.

§. **28. rata sunto.** §. 10. *n.* Bake understands that no measure is to be submitted to the people, without the previous approval of the Senate; and that its decrees are to be valid in spite of the Tribunician veto. But, as Feldh. points out, this would conflict with the other provisions in §§. 9—10.; it seems best to understand it as giving absolute authority to *Senatus—consulta,* precluding any subsequent interference with them on the part of the people. (See Ramsay, Rom. Ant. "Powers of the Senate").

ille moderatus. §. 12. *n.*

vitio careto, ceteris specimen esto. *Q.* Praeclara vero, frater, ista lex *est*, sed et late patet ut vitio careat ordo, et censorem quaerat interpretem. 29. *Att.* Ille vero etsi tuus est totus ordo gratissimamque memoriam retinet consulatus tui, pace tua dixerim, non modo censores, sed etiam iudices omnes potest defatigare.

XIII. *M.* Omitte ista, Attice. Non enim de hoc senatu nec his de hominibus, qui nunc sunt, sed de futuris, si qui forte his legibus parere voluerint, haec habetur oratio. Nam cum omni vitio carere lex iubeat, ne veniet quidem in eum ordinem quisquam vitii particeps. Id autem difficile factu est nisi educatione quadam et disciplina, de qua dicemus aliquid fortasse, si quid fuerit loci aut temporis. 30. *Att.* Locus certe non deerit, quoniam tenes ordinem legum, tempus vero largitur longitudo diei. Ego autem, etiam si praeterieris, repetam a te istum de educatione et de disciplina locum. *M.* Tu vero et istum, Attice, et si quem alium praeteriero. **Ceteris specimen esto.** Quod si *tenemus*, tenemus omnia. Ut enim cupiditatibus principum et vitiis infici solet tota civitas, sic emendari et corrigi continentia. Vir magnus et nobis omnibus

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sed et late patet. Turneb. *sedeclaterat et ut* MSS. Quintus objects that the law is too general in its terms and, *if adopted*, would require a censor to interpret it. Halm brackets **et late—ordo** et as "*antiquo glossemate foedata*" and reads **quaerit.** The conjunctive, which Vahlen retains, conveys the idea "if we were to adopt it."

§. 29. **tuus est totus.** cp. *pro Sestio*, cpp. XI. XII., where it is said that the whole Senate went into mourning on his account.

si qui forte. cp. I. §. 17. Cicero has Plato (*Legg.* VI. 751. 2.) in mind here and in what follows.

§. 30. **ordinem legum.** Probably refers to some part of Cicero's Republic which has not come down to us; Creuzer remarks: "*Eundem de educatione et disciplina locum a Scipione in libris de Republica postulat Tubero* (*de Rep.* II. xxxviii. 64)." cp. I. §. 20. **longitudo.** II. §. 69.

praeteriero. Ceteris. Lambin. *preteris* MSS. *praeterii. Ceteris.* old editions. **si tenemus.** Bake. MSS. do not repeat the verb: *si est, tenemus.* Stephens.

amicus L. Lucullus, ferebatur quasi commodissime respondisset, cum esset obiecta magnificentia villae Tusculanae, duo se habere vicinos, superiorem equitem Romanum, inferiorem libertinum: quorum cum essent magnificae villae, concedi sibi oportere, quod iis, qui inferioris ordinis essent, liceret. Non vides, Luculle, a te id ipsum natum, ut illi cuperent? quibus id, si tu non faceres, non liceret. 31. Quis enim ferret istos, cum videret eorum villas signis et tabulis refertas, partim publicis, partim etiam sacris et religiosis? quis non frangeret eorum libidines, nisi illi ipsi, qui eas frangere deberent, cupiditatis eiusdem tenerentur? XIV. Nec enim tantum mali est peccare principes, quamquam est magnum hoc per se ipsum malum, quantum illud, quod permulti imitatores principum exsistunt. Nam licet videre, si velis replicare memoriam temporum, qualescumque summi civitatis viri fuerint,

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Lucullus. The conqueror of Mithridates brought back something more than glory, from his Asiatic campaigns. His magnificent establishments became a byword among Romans: cp. Horace, *Epist.* I. vi. 40. *sqq.*; *pro Sest.* XLIII. 93. (Long, Vol. III. cpp. v. and xvi.).

ferebatur. "was talked about:" so Gk. φέρεσθαι Xenoph. *Hist. Gr.* I. v. 17. Cicero's own Tusculan villa must have cost him a considerable sum: *ad Attic.* IV. ii.; Bake compares *ad Attic.* IV. v. 2. "*Subringentur, qui villam* **me** *moleste ferunt habere, quae* **Catuli** *fuerat, a* **Vettio** *me emisse non cogitant.*" For **inferioris** Bake prefers the *v. l.* **tenvioris**, to avoid the awkwardness of having *inferioris* in the same sentence with *inferiorem*, with a different meaning.

faceres—liceret. The imperf. tense, rather than the plpf., is here used, as Bake observes, because a continued practice is signified, not a single act. Feldh. quotes Livy, IX. 19. "*Persas, Indos aliasque si* (*Alexander*) **adiunxisset** *gentes, impedimentum maius quam auxilium* **traheret.**" cp. I. §. 8. *n.*

§. 31. **partim publicis.** The Verrine orations (*e. g.* B. IV. *de signis*) give us some idea of the unscrupulousness of provincial governors with a penchant for collecting.

cupiditatis. Halm adopts Lambin's *cupiditatibus eisdem.* Wyttenb. supposes an ellipse of *culpa* or *crimine*, which would equally account for all "genitives of the charge." For **teneri** with genitive Feldh. cp. Quintil. *Inst. Or.* V. xiv. 11.; Tacit. *Ann.* XI. 7. (Madvig, *L. G.* §. 293.).

qualescumque. Turneb. cites *ad Famil.* I. ix. 12., where Cicero himself attributes this sentiment to Plato: cp. Plato, *Legg.* IV. 711. C.,

talem civitatem fuisse: quaecumque mutatio morum in principibus exstiterit, eandem in populo secutam. 32. Idque haud paulo est verius quam quod Platoni nostro placet, qui musicorum cantibus ait mutatis mutari civitatum status: ego autem nobilium vita victuque mutato mores mutari civitatum puto. Quo perniciosius de re publica merentur vitiosi principes, quod non solum vitia concipiunt ipsi, sed ea infundunt in civitatem, neque solum obsunt, quod ipsi corrumpuntur, sed etiam quod corrumpunt plusque exemplo quam peccato nocent. Atque haec lex, dilatata in ordinem cunctum, coangustari etiam potest; pauci enim atque admodum pauci honore et gloria amplificati vel corrumpere mores civitatis vel corrigere possunt. Sed haec et nunc satis et in illis libris tractata sunt diligentius: quare ad reliqua veniamus.

XV. 33. Proximum est autem de suffragiis, quae iubeo nota esse optimatibus, populo libera. *Att.* Ita me hercule attendi, nec satis intellexi quid sibi lex aut quid verba ista vellent. *M.* Dicam, Tite, et versabor in re difficili ac multum et saepe quaesita,

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Aristot. *Pol.* II. c. 11. For **secutam** MSS. have A. *secuturam*, B. *securam*.

§. 32. **Platoni.** II. §. 39. *n.*

quod ipsi. Görenz would read *ipsi quod* cp. §. 16. '*ipse qui;*' but, as Bake says, there *ipse* is placed in an unusual position, for the sake of emphasis, being opposed to *reliquis;* here the opposition is between *corrumpuntur* and *corrumpunt.*

dilatata. Although the law, (**ceteris cet.**) as stated, comprehends the whole body of Senators; yet, in point of fact, it applies to very few.

illis libris. cp. §. 12.

§. 33. **me hercule.** Wagner quotes Festus: "*Mecastor et Mehercules iusiurandum erat: quasi diceretur, ita me Castor, ita me Hercules ut subaudiatur* '**iuvet**'." Moser remarks that *Hercule* and *Herme* are old forms of the nominative; on the tendency to drop final *s* cp. Cic. *Orat.* XLVIII. 161.; Peile, *Etymol.* XII. 2. Here **ita** belongs to **attendi**—"Yes, indeed, so I observed;" one would be tempted to couple it with **me hercule**—"Upon my word, I was all attention"—were it not for *pro Ligario* V. 12. "*ita mehercule existimo.*"

suffragia in magistratu mandando ac de reo iudicando iubendaque in lege aut rogatione clam an palam ferri melius esset. *Q.* An etiam id dubium est? vereor ne a te rursus dissentiam. *M.* Non facies, Quinte. Nam ego in ista sum sententia, qua te fuisse semper scio, nihil ut fuerit in suffragiis voce melius, sed optineri an possit videndum est. 34. *Q.* Atqui, frater, bona tua venia dixerim, ista sententia maxime et fallit imperitos et obest saepissime rei publicae, cum aliquid verum et rectum esse dicitur, sed optineri, id est, obsisti posse populo negatur. Primum enim obsistitur, cum agitur severe; deinde vi opprimi in bona causa est melius quam malae cedere. Quis autem non sentit omnem auctoritatem optimatium tabellariam legem abstulisse? quam populus liber numquam desideravit,

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iubendaque. Huschke; *sciscendaque* Vahlen; *iudicando quiinlege aut rogatione* MSS.; *iudicando atque in legum rogatione* Halm. Bake thinks that **in magistratu—rogatione** is a gloss: the objection that words of nearly identical meaning (*lex*, *rogatio*, See Dict. Antiq.) should not be connected by the disjunctive **aut**, is answered by Feldh.; who remarks: "*notiones non modo* **re ipsa**, *sed etiam* **contemplatione** *diversas per particulam* **aut** *disiungi constat.*" cp. *de Fin.* III. xxi. 71. "*Nec vero rectum est cum amicis* **aut** *bene meritis consociare* **aut** *coniungere iniuriam.*" Vahlen cp. I. §. 43. "*suffragiis aut scitis.*" Feldh. quotes Festus "**Rogatio** *est, quum populus consulitur de uno pluribusve hominibus, quod non ad omnes pertineat, et de una pluribusve rebus, de quibus non omnibus sanciatur. Nam quod in omnes homines resve populus scivit,* **lex** *appellatur.*" In some editions **An etiam—dubium est?** is assigned to Atticus.

possit. MSS. A.B. have *possunt.* Halm conj. *optinerene iam possimus* and Madvig *optinerine iam possit;* since they object to this use of the particle **an**, in a dependent interrogation with the insinuation of a negative. Feldh. defends it, quoting *Lael.* VI. 20. and *Cat. Mai.* XX. 74. "*Moriendum certe est, et id incertum, an hoc ipso die.*" (Madvig, *L. G.* §. 453).

§. **34. Atqui, frater.** Halm and Feldh., from MSS. *quia* or *qua frater.*

obsistitur, quum agitur. "*i. e. obtinebuntur vocis suffragia, populus concedet vocis suffragia manere, simul atque severe in ambitum, quo potentes utuntur animadvertetur.*" Bake. To my mind, rather it seems a general statement: "For, in the first place, we do make head against them, when we act unflinchingly."

idem oppressus dominatu ac potentia principum flagitavit. Itaque graviora iudicia de potentissimis hominibus exstant vocis quam tabellae. Quam ob rem suffragandi nimia libido in non bonis causis eripienda fuit potentibus, non latebra danda populo, in qua bonis ignorantibus, quid quisque sentiret, tabella vitiosum occultaret suffragium. Itaque isti rationi neque lator quisquam est inventus nec auctor umquam bonus.

XVI. 35. Sunt enim quattuor leges tabellariae, quarum prima de magistratibus mandandis. Ea est Gabinia, lata ab homine ignoto et sordido. Secuta biennio post Cassia est de populi iudiciis, a nobili homine lata, L. Cassio, sed—pace familiae dixerim — dissidente a bonis atque omnis rumusculos

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graviora. opp. to *leviora*, "less uncertain, more authoritative." §. 39. Quintus insinuates that the *potentes* instigated the *populus* to demand the ballot, in order that they might secretly influence the voters, who would have been ashamed to give a corrupt vote openly. We must, however, remember that Cicero's *potentes* were the popular leaders; while his *boni* were an oligarchy, and many of them money lenders with plenty of opportunities for "putting on the screw." For **vocis** MSS. have *voces.*

suffragandi. "*sc. nimia populi libido potentes suffragiis adiuvandi eripienda esse dicitur potentibus.*" Feldh. Bake more correctly, I think, explains **suffragandi** of the *potentes*: "exerting their influence with the voters, in favor of a person or cause:" so *suffragatio* appears to be used *pro Plancio*, XVIII. 44.

latebra. Bake cp. *ad Div.* III. xii. 1. "*Mirandum est nullam ne in tabella quidem* **latebra** *fuisse absconditam malevolentiam.*" *pro Plancio*, VI. 16. "*Populo grata est tabella, quae frontes aperit hominum, mentes tegit datque eam libertatem, ut, quod velint, faciant promittant autem quod rogentur.*"

rationi. Lambin conj. *rogationi.* On **lator** Turneb. remarks: "**lator,** *qui legem fert.* **Auctor** *cuius suasu consilioque facit, quique legem ad populum suadet: ut* **lator** *Cassius,* **auctor** *Scipio fuit.*"

leges tabellariae. §. 10. *n.* (See Long, Introd. to Cic. *pro Plancio*, and Rom. Rep. Vol. I. c. viii.).

populi iudiciis. Bake. *iudicio is* MSS. Ernesti (*Clav. Cic.*) argues that these are the *Quaestiones Perpetuae;* but Bake shows that trials by the *Comitia* are meant; because there was no *Quaestio Perpetua* for charges of *Perduellio*, which are here mentioned as having been expressly exempted from the ballot. §. 36.

populari ratione aucupante. Carbonis est tertia de iubendis legibus ac vetandis, seditiosi atque inprobi civis, cui ne reditus quidem ad bonos salutem a bonis potuit adferre. 36. Uno in genere relinqui videbatur vocis suffragium, quod ipse Cassius exceperat, perduellionis. Dedit huic quoque iudicio C. Caelius tabellam doluitque, quoad vixit, se, ut opprimeret C. Popilium, nocuisse rei publicae. Et avus quidem noster singulari virtute in hoc municipio, quoad vixit, restitit M. Gratidio, cuius in matrimonio sororem, aviam nostram, habebat, ferenti legem tabellariam: excitabat enim fluctus in simpulo, ut dicitur, Gratidius, quos post filius eius

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populari ratione. "hawking after any petty notoriety by popular measures." Halm approves Bake's conj. **popularis aurae**: cp. *pro Cluentio*, XXVIII. 77. "*L. Quintius, homo maxime popularis, qui omnes rumorum et concionum ventos colligere consuesset.*" *ibid.* XXXVIII. 105. "*imperitorum hominum rumusculos aucupati tum illum absolverunt.*" Whatever the motive of Cassius, the result appears to have been satisfactory and *Cassiani iudices* became a byword for strictness: cp. Cic. *Brut.* XXV. 97., *in Verr. Act.* I. 10.

Carbonis. C. Papirius Carbo (*Tr. Pl.* 623. *Cos.* 634.) began life as a partisan of the Gracchi, and ended by defending L. Opimius the persecutor of that faction: being subsequently impeached by L. Crassus, he found that the *boni* had a better memory for old offences than for recent services, and only escaped condemnation by a voluntary death: cp. *de Orat.* II. XL. 170., *Brut.* XXVII. 103.

§. 36. **Caelius.** In the year *U. C.* 647., the Cos., L. Cassius Longinus, having been defeated and slain by the Tigurini, a Canton of the Helvetii; C. Popilius Laenas, who succeeded to the command, was reduced to an ignominious capitulation, his army being passed under the yoke. On his return to Rome, he was impeached by the Tribune C. Caelius Caldus, on a charge of *perduellio* ('degradation of his country,' *lèse-majesté*, 'treason'). (Long, *R. R.* Vol. II. c. i.).

avus. Cicero takes pride in mentioning an anecdote, which suggests the elder Cato: cp. II. §. 5., *de Orat.* II. LXVI, III. xxxiii.

municipio. cp. II. §. 5. Bake remarks that Arpinum, originally a *praefectura* (governed by a *praefectus* sent from Rome) subsequently became a *municipium cum suffragio.* (Ramsay, *R. A.*, *Praefecturae.*).

simpulo. cp. Thackeray, *Vanity Fair*: "A *tempest in a slop basin* is absurd. We will reserve that sort of thing for *the mighty ocean* and the lonely midnight." Rome compared with Arpinum.

Gratidius. Cic. *Brut.* XLV. 168. His son named M. Marius Gratidianus, after his adoption into the family of Marius, acquired some reputation as Praetor (*U. C.* 668.) by an edict regulating the standard of

Marius in Aegaeo excitavit mari. Ac nostro quidem [qui], cum res esset ad se delata, M. Scaurus consul "Utinam," inquit "M. Cicero, isto animo atque virtute in summa re publica nobiscum versari quam in municipali maluisses!" **37.** Quam ob rem, quoniam non recognoscimus nunc leges populi Romani, sed aut repetimus ereptas aut novas scribimus, non quid hoc populo optineri possit, sed quid optimum sit tibi dicendum puto. Nam Cassiae legis culpam Scipio tuus sustinet, quo auctore lata esse dicitur. Tu, si tabellariam tuleris, ipse praestabis; nec enim mihi placet nec Attico nostro, quantum e vultu eius intellego.

XVII. *Att.* Mihi vero nihil umquam populare placuit eamque optimam rem publicam esse dico, quam hic consul constituerat, quae sit in potestate optimorum.

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coinage (*de Off.* III. xx. 80.); he was afterwards tortured to death by Catiline. (Long, *R. R.* Vol. II. c. xix.). Halm brackets **Marius** as a gloss.

quidem qui. For *qui* Halm adopts Lambin's conj. *avo;* Vahlen fills up an imaginary gap: **ac nostro quidem** (*avo magnam ea res attulit laudem*). **Qui cum cet.** Görenz and others omit *qui*, which would more easily creep in after *quidem*, than *que* before **inquit**; where MSS. have *Utinamque*, Moser conj. *Utinam quidem*.

ad se delata. Madvig conj. *ad senatum del.*, on the ground that the reflexive **se** is out of place; but, as Feldh. observes, stranger examples of the use of the reflexive are not wanting (See Madvig, *L. G.* §. 490.).

M. Scaurus. Bake: *delatam. Scaurus* MSS.: M. Æmilius Scaurus (Cos. 639.); although an old man and *princeps Senatus* he appeared in arms against Saturninus. (Long, Vol. II. c. x.). **municipali.** II. §. 5. *n.*

§. **37.** **hoc populo.** "what can be maintained *with a people like ours &c.*" an ablative of circumstance. (Madvig, *L. G.* §. 277.).

Scipio tuus. "*i. e. qui in tuis de Rep. libris loquitur.*" Turneb. The Tribune Briso is said to have withdrawn his *veto* at the instance of Africanus: cp. *Brut.* XXV. 97. (Mommsen, B. IV. c. 2.).

praestabis. "be responsible for it;" cp. *ad Div.* VI. i. 4. "*Simus igitur ea mente, quam ratio et veritas praescribit, ut nihil in vita nobis* **praestandum** *praeter culpam putemus.*"

potestate. *v. l. potestatem.* The accusative, in phrases of this kind, is of very doubtful authority (Madvig, *L. G.* §. 230. obs. 2.). Turneb. cp. *ad Attic.* I. xvi. 6. "*Reipublicae statum illum, quem tu meo consilio, ego divino confirmatum putabam, qui bonorum omnium coniunctione et auctoritate consulatus mei fixus et fundatus videbatur.*"

38. *M.* Vos quidem, ut video, legem antiquastis sine tabella. Sed ego, etsi satis dixit pro se in illis libris Scipio, tamen ita libertatem istam largior populo, ut auctoritate et valeant et utantur boni. Sic enim a me recitata lex est de suffragiis: **optimatibus nota, plebi libera sunto.** Quae lex hanc sententiam continet, ut omnes leges tollat, quae postea latae sunt, quae tegunt omni ratione suffragium, ne quis inspiciat tabellam, ne roget, ne appellet. Pontes etiam lex Maria fecit angustos. 39. Quae si opposita sunt ambitiosis, ut sunt fere, non

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§. 38. **Vos quidem.** MSS. *vosdem* corrected *demum;* but, as Bake and Feldh. remark, **demum** (= *non nisi*) would be out of place; since *vos demum* would be "you and no one before you." **illis libris.** §. 12.

ita libert. MSS. *istam l. istam.* Huschke's conj. *iustam lib. istam* seems likely; but Edd. generally alter one or other of the two pronouns into **ita** because of the following *ut.*

optimatibus nota. *i. e.* the people are to vote as they please, but the *optimates* are to be permitted to know how they vote. This sounds to us like a paradox; but, looked at from the Ciceronian stand point (§. 34.), is rational enough. Cicero says truly that secret voting is unnecessary, where the laws effectually prevent *ambitus* (bribery, intimidation &c.), and in this agrees with Quintus; but the liberty which he concedes, is avowedly a specious device for quieting the people and, at the same time, securing the influence of the *optimates.* (On the subject of secret voting, see Long, *R. R.* Vol. I. c. viii.).

tollat. MSS. have *tollet* or *tolleret.* **postea:** "*i. e. post leges tabellarias*" Turneb. As the *lex* **Maria** (635.) was prior to the *lex* **Caelia** (647.), we must suppose that Cicero refers to the original institution of the ballot: **pontes** were the approaches to the *septum* or *ovile* (See Ramsay, *R. A. s. v.*); when these passages were narrow, one man would not be able to see how another voted.

§. 39. **Quae si opposita.** If these precautions (*ne quis inspiciat,* &c.) are interposed to prevent undue influence, as they are on the whole, Marcus finds no fault; but even supposing that the laws (**de ambitu**) prove sufficient to prevent it (this deals with Q.'s view of the proper remedy §. 34), he would still leave the people the ballot, as a kind of assertion of liberty, provided &c.—so that there may be liberty (this fancied freedom of action) in that very arrangement, in which &c.—It is likely that the people possessing this symbol of pseudo-liberty, will (as in Quintus' example of the *iudicia*) rest satisfied with it, and be willing in other respects (*reliqua voluntas*) to yield to the influence (*gratiae, gratificandi*) of the *boni.* Halm reads **sin valuerint tantum l. ut desinat ambitus.** Vahlen **sin non valuerint** (*i. e.* if the *leges, quae tegunt omni ratione suffragium,* have not been successful, as we must admit, in

reprehendo: sin valuerint tamen leges, ut ne sit ambitus, habeat sane populus tabellam quasi vindicem libertatis, dum modo haec optimo cuique et gravissimo civi ostendatur ultroque offeratur, ut in eo sit ipso libertas, in quo populo potestas honeste bonis gratificandi datur. Eoque nunc fit illud, quod a te modo, Quinte, dictum est, ut minus multos tabella condemnet, quam solebat vox, quia populo licere satis est. Hoc retento reliqua voluntas auctoritati aut gratiae traditur. Itaque, ut omittam largitione corrupta suffragia, non vides, si quando ambitus sileat, quaeri in suffragiis quid optimi viri sentiant? Quam ob rem lege nostra libertatis species datur, auctoritas bonorum retinetur, contentionis causa tollitur.

XVIII. 40. Deinde sequitur, quibus ius sit cum populo agendi aut cum senatu. Tum gravis et, ut arbitror, praeclara lex: **Quae cum populo quaeque in patribus agentur, modica sunto**, id est modesta atque sedata; actor enim moderatur et fingit non modo mentem ac voluntates, sed paene vultus eorum, apud quos agit. Quod est in senatu non difficile; est enim

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preventing *ambitus*, Marcus would not abolish the ballot, but restore to the people the liberty of showing it to whom they please.). Bake explains **reliqua voluntas**. "*i. e. quod reliquum est, voluntas* (*i. e. propensio, benevolentia* "their good will")" cp. the use of ἄλλος in Greek.

Hoc retento. *hoc* = *licere*. cp. Livy, IV. 6. "*Eventus eorum comitiorum docuit, alios animos in contentione libertatis dignitatisque, alios secundum deposita certamina—tribunos enim omnes patricios creavit populus, contentus eo, quod ratio habita plebeiorum esset.*"

§. 40. **Tum gravis.** Vahlen supplies *tum*, cp. §. 44. MSS. omit also **quae cum populo**, supplied from §. 10. Halm reads *praeclara est lex.*

Quod est in senatu. Halm. **quod** = '*modesta atque sedata esse.*' MSS. have **quod si in senatu.** Feldh. **quod nisi in s.** (*i. e. moderari cet.*). Vahlen supposes a gap: *e. g.* **quod si in** [*populo arduum est, in*] **senatu non difficile. Est enim.** cp. *de Orat.* II. lxxxii. 333. "*Haec in Senatu minore apparatu agenda sunt; sapiens enim est consilium, multisque aliis dicendi relinquendus locus; vitanda etiam ingenii ostentationis suspicio. Contio capit omnem vim orationis et gravitatem varietatemque desiderat.*"

ipse senator is, cuius non ad auctorem referatur animus, sed qui per se ipse spectari velit. Huic iussa tria sunt: ut adsit; nam gravitatem res habet, cum frequens ordo est: ut loco dicat, id est rogatus: ut modo, ne sit infinitus; nam brevitas non modo senatoris, sed etiam oratoris magna laus est in sententia: nec est umquam longa oratione utendum, nisi aut peccante senatu, quod fit ambitione saepissime, nullo magistratu adiuvante tolli diem utile est, aut cum tanta causa est, ut opus sit oratoris copia vel ad hortandum vel ad docendum: quorum generum in utroque magnus noster Cato est. 41. Quodque addit "**causas populi teneto,**" est senatori necessarium nosse rem publicam, idque late patet: quid habeat militum, quid valeat aerario, quos socios

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ipse senator. Acc. to Bake *ipse* serves to mark the distinction between the speaker and his hearer. Huschke conj. *est enim* **ibi** *senator.* For **auctorem** some read *actorem* (MSS. have also above *auctor enim*).

ut adsit. The convener might enforce attendance by seizing a pledge (*pignoris capio*) or exacting a fine: cp. *Philipp.* I. c. V.

loco. The presiding Magistrate generally observed a certain order of precedence, in calling upon Senators to give their opinions: the Consuls elect were usually first called upon: cp. Gellius, *Noct. Att.* XIV. 7. 4. (See Ramsay, *R. A.*).

in sententia. *sc. dicenda.* Halm, after Orelli, brackets **in sententia** as a gloss; but Vahlen cp. *Brut.* XIII. 50. "*Brevitas laus est interdum in aliqua parte dicendi, in universa eloquentia laudem non habet.*" Even a good speaker must not take up the time of the Senate, *in sententia dicenda*: cp. *de Orat. l. c.*

nisi aut peccante. A long speech is admissible: (1) "against time," if the Senate is likely to go wrong (persons, in favour of a vicious measure, having gone round to their friends and secured their attendance) and no Magistrate comes to the rescue with his *veto;* (2) if justified by the importance of the subject. Some refer **quod fit cet.** to **longa or. utendum**, in which case, Bake's transposition: **utendum, quod—saepissime, nisi,** would seem to be required.

Cato. Acc. to Plutarch (*Cato Min.* XXXI. 774.) Cato defeated a proposal to allow Caesar, on his return from Spain, to be a candidate for the Consulship, without entering the city, by speaking against time. cp. Caesar, *Bell. Civ.* I. 32. (Long, *R. R.* Vol. III. xviii, xix.).

§. 41. **causas populi.** "understand the affairs of the nation." Bake quotes *pro Balbo,* XIX. 45., where **causas** is coupled *per epexegesin* with **conditiones.**

res publica habeat, quos amicos, quos stipendiarios, qua quisque sit lege, condicione, foedere; tenere consuetudinem decernendi, nosse exempla maiorum. Videtis iam genus hoc omne esse scientiae, diligentiae, memoriae, sine quo paratus esse senator nullo pacto potest. **42.** Deinceps sunt cum populo actiones, in quibus primum et maximum: **vis abesto.** Nihil est enim exitiosius civitatibus, nihil tam contrarium iuri ac legibus, nihil minus et civile et humanum est quam composita et constituta re publica quicquam agi per vim. Parere iubet intercessori, quo nihil praestantius; inpediri enim bonam rem melius quam concedi malae.

XIX. Quod vero actoris iubeo esse fraudem, id totum dixi ex Crassi, sapientissimi hominis, sententia:

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res publica. Halm brackets as a gloss. In this enumeration of subjects, with which a statesman should be familiar, Cicero evidently has Aristotle's Rhetoric (B. I. c. IV.) in mind.

stipendiarios. Wyttenb. remarks that only one class of tributaries is here mentioned; since, strictly speaking, the *stipendiarii* were those who paid a poll tax, as distinguished from the *vectigales*, who paid a tribute of their produce. Feldh. observes that **foedere** refers to *socii*, **condicione** to *amicos*, **lege** to *stipendiarios* (See Ramsay, R. A. *civitates foederatae.*)

consuetudinem decer. "the usual forms of procedure." Gellius, *Noct. Att.* XIV. 7., mentions that Varro drew up a treatise on this subject, for the benefit of Pompeius (See Ramsay, *Senatus*). **esse scientiae.** Halm. MSS. omit **esse.**

§. **42. et civ. et humanum est.** Feldh. MSS. A. *minus* civile est humanūs.* "less becoming either to citizens or to human beings," πολιτικὸν καὶ ἀνθρώπινον. Halm and Bake read *minus civile et hum.* as if a mere phrase; the former suggests *minus est civile aut humanum.*

concedi malae. "*i. e. quam concedi et permitti aliquid seditioni populi et turbis; quam turbas et tumultum excitari in concione.*" Turneb. But the observation is a general one: "it is better that a good measure should occasionally be obstructed, than that a bad one should be suffered to pass." The *veto* was fully as useful to the *boni* as to their opponents; since the Senate, as a permanent body, could afford to wait, until the expiration of an obnoxious Magistrate's term of office.

Crassi. Commentators are divided as to which Crassus and which Carbo are here meant: Bake thinks P. Crassus Mucianus Dives (Cos. 623.), and refers this event to that Consulship of C. Claudius and

quem est senatus secutus, cum decrevisset C. Claudio consule de Cn. Carbonis seditione referente, invito eo, qui cum populo ageret, seditionem non posse fieri, quippe cui liceat concilium, simul atque intercessum turbarique coeptum sit, dimittere. Quod qui permovet, cum agi nihil potest, vim quaerit, cuius inpunitatem amittit hac lege. 43. Sequitur illud: **Intercessor rei malae salutaris civis esto.** Quis non studiose rei publicae subvenerit hac tam praeclara legis voce laudatus? Sunt deinde posita deinceps, quae habemus etiam in publicis institutis atque legibus: **auspicia servanto, auguri parento.** Est autem boni auguris meminisse *se* maximis rei publicae temporibus praesto esse debere Iovique optimo maximo se consiliarium atque administrum datum, ut sibi eos, quos in auspicio esse iusserit, caelique partes sibi definitas esse traditas, e quibus

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M. Perperna, which fell in the year 624. cp. §. 35. **Carbonis.** *n.* But, as P. Crassus perished in the early part of that year, and MSS. favour the reading *Cn. Carbonis*, it seems better to understand, with Wyttenbach, L. Licinius Crassus (Cos. 659.) and the year *U. C.* 662. Feldh. cites *Verr.* I. xiv. and *Brut.* LXII. 223. where Cn. Carbo (Cos. 669.) is styled "*homo seditiosus*" and "*turbulentis concionibus aptissimus*" (Long, Vol. II. c. xxiv.).

cum decrevisset. "*sc.* **Crassus**; *nam non solum Senatus, sed singuli etiam Senatores* **decernere** *dicuntur.* cf. Cic. *de Prov. Cons.* XI. 28." Feldh. For the construction, Madvig, *L. G.* §. 358.

permovet. "*ad iracundiam incendit.*" Davies. Scheffer thinks that 'persistence' is signified: cp. §. 26. **permanes** (διαμένεις). **quod.** *sc. concilium.*

§. **43. subvenerit.** "*sc. intercedendo.*" Turneb. cp. §. 9. **auxilii.** *n.* **deinde—deinceps.** §. 4. *n.*

meminisse se. Lambin. MSS. omit *se* (see Madvig, *L. G.* §. 401.). cp. II. §. 33.

consiliarium "sharer in the counsel." "*est enim* **consiliarius** *non is, qui consulit, ut* **consultor,** *sed is qui in consilium adhibetur. cf. ad Div.* I. ii. §. 3." Bake.

in auspicio. Cicero, *de Divin.* II. xxxiv. gives the form of words used: "*Q. Fabi te mihi in auspicio esse volo;*" *respondet*; "*Audivi.*" Feldh. remarks that, as the Magistrate called in the Augur to take the auspices, so the Augur '*qui capite obvelato sedebat*' (Liv. I. 18.) required an assistant. **definitas.** II. §. 21.

saepe opem rei publicae ferre possit. Deinde de promulgatione, de singulis rebus agendis, de privatis magistratibusve audiendis.

44. Tum leges praeclarissimae de duodecim tabulis tralatae duae, quarum altera privilegia tollit, altera de capite civis rogari nisi maximo comitiatu vetat. Et nondum inventis seditiosis tribunis plebis *ne* negotiosis quidem, admirandum tantum maiores in posterum providisse. In privatos homines leges ferri noluerunt; id est enim privilegium: quo quid est iniustius? cum legis haec vis sit, ut sit scitum et iussum in omnis. Ferri de singulis nisi centuriatis comitiis noluerunt. Discriptus enim populus censu, ordinibus, aetatibus plus adhibet ad suffragium consilii quam fuse in tribus convocatus. 45. Quo verius in causa nostra vir magni

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§. 44. **inventis.** Turneb. *intis.* MSS. *natis.* Görenz. cp. II. §. 11. where B. has **intas** for *inventas.* Halm adopts Davies' conj. *notis.*

ne negotiosis. "not even troublesome ones:" cp. Gk. *πολυπράγμων*: Lambin, whose conj. *ne cogitatis* has been adopted by Halm and others, says that all his MSS. vary between **negotiosis** and **negotialis**: MSS. A. B. have: *negotia* * *is* (*a is* in ras.) A, *negotia his* B. Bake and Feldh. agree that some anthithet to **seditiosis** is required, Feldh. conj. *ne malis*; but **ne** would more readily be absorbed before *negotiosis* and the unusual, though perfectly natural, sense of *negotiosis* ("busy, meddlesome") would conduce to the mistake: moreover the termination *-osis* corresponds with **seditiosis**; it is likely too that 'busy-bodies' would be most inclined to interfere in the case of individuals.

privatos. 'individuals:' for this doubtful use of *privatus* Edd. cp. *de Domo*, XVII. 43.; Scaliger conj. **privos.**

ut sit scitum. MSS. omit *ut sit*, supplied by Rath; Vahlen thinks **ut sit** unnecessary; cp. *Acad. pr.* II. ix. 29. "*hanc enim esse regulam totius philosophiae,* ('namely') *constitutionem veri falsi.*" (Madvig, *L. G.* §. 435. 4.). Turneb. quotes Demosthenes (*Timocrat.* 719., 59.) *μηδὲ νόμον ἐξεῖναι ἐπ' ἀνδρὶ θεῖναι, ἐὰν μὴ τὸν αὐτὸν ἐπὶ πᾶσιν Ἀθηναίοις τιθῇ κ. τ. λ.*

de singulis. "*Hoc ad iudicia populi pertinet, ne de capite civis, nisi c. c., agatur.*" Turneb. **discriptus** Halm, **descriptus** MSS. §§. 7., 11. *n.*

fuse. "promiscuously." "*i. e. sine discrimine ordinum, aetatum, census. Similiter* I. §. 36. **fuse** *is disputare dicitur, qui diversas res non sane distinguit.*" Feldh.

ingenii summaque prudentia, L. Cotta, dicebat nihil omnino actum esse de nobis; praeter enim quam quod omnia illa essent armis gesta servilibus, praeterea neque tributa capitis comitia rata esse posse neque ulla privilegii. Quocirca nihil nobis opus esse lege, de quibus nihil omnino actum esset legibus. Sed visum est et vobis et clarissimis viris melius, de quo servi et latrones scivisse aliquid dicerent, de hoc eodem cunctam Italiam quid sentiret ostendere.

XX. 46. Sequitur de captis pecuniis et de ambitu. Legesque cum magis iudiciis quam verbis sanciendae sint, adiungitur: **Noxiae poena par esto,** ut in suo vitio quisque plectatur, vis capite, avaritia multa, honoris cupiditas ignominia sanciatur. Extremae leges sunt nobis non usitatae, rei publicae necessariae. Legum custodiam nullam habemus. Itaque eae leges

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§. 45. **ingenii—prudentia.** a curious *enallage*, but not unexampled; Davies conj. *magno ingenio.* (Madvig, *L. G.* §. 287., 2.).

Cotta. L. Aurelius Cotta (Cos. 689.). cp. *pro Sestio*, XXXIV. 73. "*L. Cotta dixit—nihil de me actum esse iure, nihil more maiorum, nihil legibus: de capite non modo ferri, sed ne iudicari quidem posse, nisi comitiis centuriatis:—quare me, qui nulla lege abessem, non restitui lege, sed revocari senatus auctoritate oportere.*"

omnia illa. Halm. *amicitia illa* MSS. *comitia illa* Vulg. and Vahlen, who thinks that, although *comitia geri* is unexampled, *comitia armis geri* may be admissible. **servilibus.** §. 25.

clarissimis. *e. g.* Pompeius, Cotta, Lentulus. "*Revocatus est* (*Cicero*) *senatusconsulto et lege populi comitiis centuriatis lata, civibus ex Italia omni confluentibus ad suffragia ferenda.*" Wyttenbach. For **et vobis** some read *et nobis.*

§. 46. **Legesque cum—sanciendae.** Vahlen. *legis quae* (or *que*) *cum* MSS. Halm after Bake and Feldh. reads **ambitu. Quae quoniam—sancienda sunt**; by which means they avoid the difficulty of giving *sanciendae*, *sanciatur* different meanings, cp. II. §. 11.

honoris cupiditas. "*i. e. ambitus.*" Turneb. Cicero, I think, has Aristotle in mind (*N. E.* X. 10.). *οἱ γὰρ πολλοὶ ἀνάγκῃ μᾶλλον ἢ λόγῳ πειθαρχοῦσι καὶ ζημίαις ἢ τῷ καλῷ.—διὸ καί φασι δεῖν τοιαύτας γίνεσθαι τὰς λύπας αἳ μάλιστ' ἐναντιοῦνται ταῖς ἀγαπωμέναις ἡδοναῖς.*

Legum custodiam. Although the Quaestors, during their term of office, had charge of the *Ærarium*, in which *Scta* and other official records were deposited; yet, as they had other duties and their term was short,

sunt, quas adparitores nostri volunt: a librariis petimus, publicis litteris consignatam memoriam publicam nullam habemus. Graeci hoc diligentius, apud quos *νομοφύλακες* creabantur; nec ii solum litteras—nam id quidem etiam apud maiores nostros erat—, sed etiam facta hominum observabant ad legesque revocabant. **47.** Haec detur cura censoribus, quando quidem eos in re publica semper volumus esse. Apud eosdem qui magistratu abierint, edant et exponant quid in magistratu gesserint, deque iis censores praeiudicent. Hoc in Graecia fit publice constitutis accusatoribus. Qui quidem graves esse non possunt, nisi sunt

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Magistrates must, necessarily, have been very much at the mercy of the permanent clerks of the department (*librarii*), who furnished the extracts (Ramsay, *R. A. apparitores*). The Ædiles also, for a time at least, preserved the *Scta* and other laws, in their temple of Ceres; cp. Livy, III. LV. "*Institutum etiam ab iisdem Coss.* (*L. V. Potito, M.' Horatio, U. C.* 306.) *ut Scta in aedem Cereris ad Ædiles Plebis deferrentur, quae antea arbitrio Consulum supprimebantur vitiabanturque.*" (Mommsen, Vol. I. B. ii. c. 2.).

memoriam. "public record officially registered." Bake considers **publicam** an interpolation.

creabantur. Bake. *creantur* MSS. The Nomophylaces, according to Suidas, were seven in number, and sat with the Proedri, in the assembly, to prevent any measure detrimental to the state from being put to the vote. It is doubtful if there were any such functionaries at Athens, during its independence: Bake thinks that this may have been one of the reforms of Demetrius Phalereus, II. §. 26. cp. Æschines, *Ctes.* §. 38., where the duty of revising the laws yearly is said to be expressly enjoined upon the Thesmothetae. (See Grote, *Hist. Gr.* Vol. V. c. xlvi.).

revocabant. "*i. e. cives, qui has leges migrarent, a custodibus legum revocabantur ad leges.*" Wytt.

§. **47. volumus.** §. 7. *n.*

in Graecia. Bake instances the case of C. Gracchus, who was called to account by the Censors for leaving Sardinia before the expiration of his Quaestorship, to show that such a practice was not unknown at Rome. (Long, *R. R.* Vol. I. c. xvii.).

accusatoribus. To the public auditors (εὔθυνοι, λογισταί), who reviewed the proceedings of all who had held responsible public offices, certain assessors (πάρεδροι, συνήγοροι.) were assigned, whose duty it was to prosecute delinquents. These public prosecutors, as Bake remarks, must not be confounded with the Euthyni themselves. (See Dict. Ant. *euthyne.*)

voluntarii. Quocirca melius rationes referri causamque exponi censoribus, integram tamen legi, accusatori iudicioque servari.

Sed satis iam disputatum est de magistratibus, nisi forte quid desideratis. *Att.* Quid? si nos tacemus, locus ipse te non admonet quid tibi sit deinde dicendum? *M.* Mihine? de iudiciis arbitror, Pomponi; id est enim iunctum magistratibus. 48. *Att.* Quid? de iure populi Romani, quem ad modum instituisti, dicendum nihil putas? *M.* Quid tandem hoc loco est quod requiras? *Att.* Egone? quod ignorari ab iis, qui in re publica versantur, turpissimum puto. Nam, ut modo a te dictum est, leges a librariis peti, sic animadverto plerosque in magistratibus ignoratione iuris sui tantum sapere, quantum apparitores velint. Quam ob rem, si de sacrorum alienatione dicendum putasti, quom de religione leges proposueras, faciendum

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voluntarii. But voluntary prosecutors are not necessarily more to be relied upon; apart from the question of fitness, there may be collusion. Cicero would seem to have forgotten his own experience in the case of Verres; cp. *in Caecil. passim.*

legi. Inferior MSS. have *legem*, Lambin *rem;* but, as Halm asks, what objection can there be to the sentence *integram causam legi servari?*
integram. §. 11. "*nec eo magis lege liberi sunto.*" Vahlen compares Lycurg. *in Leocr.* 11. 4. *ὁ μὲν γὰρ νόμος πέφυκε προλέγειν ἃ μὴ δεῖ πράττειν, ὁ δὲ κατήγορος μηνύειν τοὺς ἐνόχους τοῖς ἐκ τῶν νόμων ἐπιτιμίοις καθεστῶτας, ὁ δὲ δικαστὴς κολάζειν τοὺς ἐπ' ἀμφοτέρων τούτων ἀποδειχθέντας αὐτῷ κ. τ. λ.*

§. 48. **instituisti.** cp. II. §. 46. As Marcus, when discussing the *ius pontificium* (II. §. 50.) has stated the general principle, which governs the interpretation of particular cases; so Atticus would have him do with the *ius magistratuum.*

peti. a conj. of Manutius, cp. §. 46. *petimus;* MSS. have *lego;* which, I think, points to an absorbed *ego;* especially as this would balance the preceding **te.**

plerosque. R. Steph. MSS. *rosque* or *quosque.* By **iuris sui** is meant, that which pertains to their respective offices: one is curiously reminded of the modern J. P. Bake conj. *eos, qui in magistratu* (? **magistratibus**) *sint;* which Feldh. rejects, as too sweeping a condemnation, but cp. §. 19. For **quom de** MSS. have *quoniam de.*

tibi est ut, magistratibus lege constitutis, de potestatum iure disputes. 49. *M.* Faciam breviter, si consequi potuero: nam pluribus verbis scripsit ad patrem tuum M. Iunius Sodalis, perite meo quidem iudicio et diligenter. Nos autem de iure naturae cogitare per nos atque dicere debemus, de iure populi Romani quae relicta sunt et tradita. *Att.* Sic prosum censeo et id ipsum, quod dicis, exspecto.

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potestatum iure. Madvig. *potestate tum iure* A. Bake (who reasonably objects to the "*quaesita varietas*," **potestatum** for **magistratuum**) conj. *de potestate eorum et iure*; cp. *ad Div.* XIII. xxvi. 2., where *ius et potestas* are coupled, as a cumulative phrase.

§. 49. **M. Junius.** surnamed Gracchanus, from his friendship with C. Gracchus (Plin. *N. H.* XXXIII. ii. 9.), wrote *Commentarii* and a treatise *de Potestatibus*. Some think that he is not called **sodalis** as being a friend and companion of the elder Pomponius; but that it is a cognomen either of the family or of the individual, as belonging to one of the religious guilds.

Nos autem. Bake. *Nos at* * A. cp. II. §. 41. *n.* In treating of the *ius naturae*, we may properly think and speak for ourselves, independently of what others have written; whereas the *ius populi R.* is necessarily based upon tradition and precedent. For **prosum**, Halm's conjecture, A. has *procum*, Vulg. *profecto*.

FRAGMENTA LIBRORUM DE LEGIBUS.

1. Lactantius, *instit. div.* V. 8. *Quod quidem Cicero vidit; disputans enim de legibus:* Sicut una, *inquit*, eademque natura mundus omnibus partibus inter se congruentibus cohaeret ac nititur, sic omnes homines inter se natura confusi pravitate dissentiunt, nec se intellegunt esse consanguineos et subiectos sub unam eandemque tutelam: quod si teneretur, deorum profecto vitam homines viverent.

2. Lactantius, *inst. div.* I. 20. Magnum *Cicero* audaxque consilium suscepisse Graeciam dicit, quod Cupidinum et Amorum simulacra in gymnasiis consecrasset.

3. Lactantius, *inst. div.* III. 19. *Quam sententiam Cicero de legibus sic explicavit:* Gratulemurque nobis, quoniam mors aut meliorem quam qui est in vita aut certe non deteriorem adlatura est statum; nam sine corpore animo vigente divina vita est, sensu carente nihil profecto est mali.

4. Augustinus, *de civ. dei* XXI. 11. Octo genera poenarum in legibus esse *scribit Tullius*, damnum, vincula, verbera, talionem, ignominiam, exilium, mortem, servitutem.

Fr. I. Probably, as Feldh. suggests, this is not a literal quotation from a lost passage, but a digest of I. §§. 23. foll.

II. Some assign this frag. to II. §. 28.; but Feldh. thinks that it belongs more properly to the Republic (*de Rep.* IV. 4.).

III. See II. §. 54. *n.*

IV. Bake thinks that this is not a quotation from the *de Legibus*; but, possibly, from the Republic: of which dialogue St. Augustine makes frequent use: in legibus he explains "*in* XII. *tab.*" Halm comp. Isidorus, *Origg.* V. 27., where the same passage is quoted.

5. Servius *ad Verg. Aen.* V. 16. *Cicero ait in libris legum:* Stipem prohibeo; nam auget superstitionem et exhaurit domos: dignis igitur largiendum est.

6. Macrobius *de differentiis et societatibus Graeci Latinique verbi,* 17, 6. *Cicero de legibus tertio:* Qui poterit socios tueri, si dilectum rerum utilium et inutilium non habebit?

7. Macrobius, *Saturn.* VI. 4. §. 8. *Cicero in quinto de legibus:* Visne igitur, quoniam sol paululum a meridie iam devexus videtur nequedum satis ab his novellis arboribus omnis hic locus opacatur, descendamus ad Lirim eaque quae restant in illis alnorum umbraculis persequamur?

V. cp. II. §. 40. Servius evidently is quoting from memory; as Moser and others have pointed out.

VI. The words **si dilectum—habebit** are wanting in Macrobius, but supplied from his epitomizer, an "*Auctor incertus de verbo p.* 160. *ed. Endlich.*" Halm. Vahlen assigns this passage to the gap at III. §. 17.; it refers, apparently, to the clause "**sociis parento.**" III. §. 9.

VII. **descendamus.** *v. l. descendatur.*

List of passages, in which the Text of this Edition differs from that of Halm.

BOOK I.

§§. 2. *dicatur.* 4. *sint.* 5. *vel.* 6. *iuncidius, aetati.* 8. *capiat.* 14. *ad Lirem. in usu.* 16. *a natura.* 19. *prudentis.* 23. *eaque est ut iam—sit.* 24. *omni—disputatur.* 26. *enudavit.* 27. *nimis.* 33. *a natura.* 36. *disiecta. et scil.* 37. *stabiliendos—sanandos.* 39. *nimias.* 40. *illius. tamen.* 42. *sita. sint. quo.* 47. *At vero.* 48. *sin ea.* 49. *suapte vi. ipsum.* 50. *multare—notatum.* 52. *cum ista.* 53. *essetque.* 62. *est ea.* 63. *pie.*

BOOK II.

§§. 1. *id.* 4. *puto, cur.* 5. *Numquid. iussit, et.* 6. *Ut enim.* 8. *sermonis. expressam.* 9. *tamen.* 11. *verumque, id* [*ut*]. 12. *ob id.* 19. *caelom—vocaverint. ne uncula. amovento.* 20. *aliis alii quorum. postera.* 21. *defixerit. ratorum—nontii.* 22. [*quocirca*]. *Bonos.* 23. *Q. Conclusa—frater.* 25. *Quid enim?* 26. *Nam a.* 28. *detestataque. Huiusce.* 29. *confitendarum.* 31. *cum auctoritate coni.* 32. *divinare videantur. et eosdem.* 33. *Arabum.* 34. *sat esse plane.* 37. *ad nostra.* 38. *divisis—vigeat. conservare. mollitis.* 39. *Illud —video. exsultent—torqueant.* 42. *Omnia tum.* 43. *quid agerent.* 44. *poenam esse. ex ea.* 46. *possit moveri.* 48. *Exposite. essent ea. quaeruntur. propositum.* 49. *Haec nos. si—legatum est.* 50. *quom—deducta.* 51. *quas quis. quoi ipse.* 53. *Quid—noluisset?* 55. *residentur mortuis. nec ipsius. resectum.* 56. *si tam.* 57. *caesus est.* 58. *ecquidnam. lamina.* 60. *de unctura vecturaque. tollitur. circumportatio. plura fierent. videte. excipiat—lege. essent. sepeliet uretve.* 61. *veretur acerbum.* 62. *requiro.* M. *Recte requiris.* 63. *illo* [*mores*]. *hoc ius.* 64. *raserit. videmus.* 67. *mortuos.*

BOOK III.

§§. 6. *innoxium.* 9. *servos.* 12. *nostris. saltem.* 15. *regis.* 23. *quod.* 24. *cum—potestas. non bonos.* 25. *concitata.* 28. *late—quaerat.* 29. *his.* 31. *cupiditatis.* 33. *iubenda. possit.* 35. *populari ratione.* 36. [*qui*]. 39. *ne sit.* 40. *Tum gravis.* 42. *et civile.* 44. *inventis. negotiosis.* 46. *Legesque. creabantur.*

OTHER CHANGES PROPOSED BY THE EDITOR BUT NOT INCORPORATED IN THE TEXT:—

B. I. §. 7. *sed actio.* §. 31. add *est, et suavitate.* §. 44. *ea quae—inchoata est.* §. 60. *eicerit.*

B. II. §. 11. omit *ut* before *illa.* §. 19. *merito.* §. 29. *Quod tempus et ut.* §. 37. *audaciam in eo damnet.* §. 41. *autem votum.* §. 60. *incremarentur.* §. 61. *adici ad.*

B. III. §. 12. *potuit sine.* §. 22. *spe—furoribus.* §. 48. *ego.*

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